

BRIDGEWATER TOWNSHIP
ZONING BOARD OF ADJUSTMENT
Regular Meeting
December 21, 2021
—MINUTES—

1. CALL MEETING TO ORDER:

Chairman Foose called the meeting to order at 7:00 pm.

2. OPEN PUBLIC MEETING ANNOUNCEMENT:

ANNOUNCEMENT; Adequate notice of this meeting has been given in accordance with the Open Public Meetings Act N.J.S.A.10:4-6. On January 19, 2022 proper notice was sent to the Courier News and the Star-Ledger and filed with the Clerk at the Township of Bridgewater and posted on the bulletin board in the Municipal Building. Please be aware of the Zoning Board of Adjustment policy for public hearings: No new applications will be heard after 10:15 pm and no new testimony will be taken after 10:30 pm. Hearing Assistance is available upon request. Accommodation will be made for individuals with a disability, pursuant to the Americans With Disabilities Act (ADA), provided the individual with the disability provides 48 hours advance notice to the Planning Department Secretary before the public meeting.” However, if the individual should require special equipment or services, such as a CART transcriber, seven days advance notice, excluding weekends and holidays, may be necessary.

3. SALUTE TO FLAG:

5. ROLL CALL

Donald Sweeney	Present	Jeff Foose	Present
Bruce Bongiorno	Present	John Gayeski	Absent
James Weideli	Present	John Fallone	Present
Dawn Guttschall	Present	Andrew Fresco	Present
Pushpavati Amin	Present	Gary La Spisa	Absent

Others present: Board Attorney Amanda Wolfe, Esq., Board Planner Scarlett Doyle, PP, Board Engineer William Burr, IV, PE, and Natalie Trosi, Secretary.

7: APPROVAL OF MINUTES:

December 7, 2021 Regular Meeting (pending)

8. MEMORIALIZING RESOLUTION(S):

There were no resolutions for adoption.

9. OPEN MEETING TO THE PUBLIC:

With there being no members of the public wishing to speak, the Board unanimously closed the public portion.

10. HEARINGS & DELIBERATIONS

OUTFRONT MEDIA LLC – ROUTE 22 (Carried from December 7, 2021 ZB Meeting)

Block 206 Lot 3

21-012-ZB- PRELIMINARY AND FINAL SITE PLAN WITH VARIANCE RELIEF

See attached transcript provided by Lisa C. Bradley, Certified Court Reporter.

MARTINSVILLE REALTY ASSOCIATES, LLC - 801 CHIMNEY ROCK RD

Block 802 Lot 131

21-031-ZB– PRELIMINARY SITE PLAN AND USE VARIANCE

This application was carried to the March 1, 2022 pending proper notice.

11. OTHER BOARD BUSINESS

There was no other Board business.

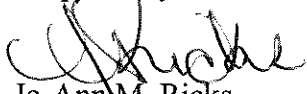
12. EXECUTIVE SESSION

There was no executive session.

13. ADJOURNMENT

The Board unanimously voted to adjourn at approximately at approximately 9:40 pm.

Respectfully Submitted,



Jo-Ann M. Ricks

Deputy Land Use Administrator/Deputy Zoning Officer

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TOWNSHIP OF BRIDGEWATER, NEW JERSEY
ZONING BOARD OF ADJUSTMENT

IN THE MATTER OF: : TRANSCRIPT OF
: PROCEEDINGS
OUTFRONT MEDIA LLC :
ROUTE 22 :
BLOCK 206, LOT 3 :

Tuesday, December 21, 2021
100 Commons Way
Bridgewater, NJ 08807
Commencing at 7:34

BOARD MEMBERS PRESENT:

JEFF FOOSE, Chairman
BRUCE BONJIORNO
KEVIN WROBEL
JAMES WEIDELI
PUSHPAVATE AMIN
DAWN GUTTSCHALL
JOHN FALLONE
ANDREW FRESCO

ALSO PRESENT:

WILLIAM BURR, Engineer
SCARLETT DOYLE, P.P., Planner
NATALIE TROSI, Secretary

LISA C. BRADLEY
CERTIFIED COURT REPORTER

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1 APPEARANCES:

2
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4 Attorney for the Board

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3
I N D E X

1	2	3
4	<u>WITNESS</u>	<u>PAGE</u>
5	TIAGO DUARTE	6
6	JOHN ANTAL	16
7	JUSTIN TAYLOR	19
8	JOHN MCDONOUGH	55

9
E X H I B I T S

10	11	12	13
14	<u>NO.</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
15	A-15	Aerial maps	20
16	A-17	Photographs	57

4
1 CHAIRMAN FOOSE: I'm going to open it to
2 Outfront Media. We're going to continue from our
3 December 7th hearing.

4 Mr. Purcell.

5 MR. PURCELL: Mr. Chairman, members of
6 the Board, My name is Edward Purcell. I'm an
7 attorney at Price Meese Shulman & D'Arminio. We're
8 here tonight on behalf Outfront Media. Outfront
9 owns and operates a 10 foot by 9 inch static sign on
10 property located at 1130 US Highway Route 22 East in
11 the Township of Bridgewater, in 1D, limited
12 manufacturing zone. It's shown on the Township's
13 tax map as Block 206, Lot 3.

14 As stated previously, our client is
15 currently requesting to modernized the existing sign
16 with multi-message technology. The modernized sign
17 will consist of a single pole, single face,
18 multi-message billboard with dimensions of 10 feet 6
19 inches by 22 feet, maintain a height of 17.9 feet.
20 We're shifting the sign away from the right
21 right-of-way to make the location more conforming
22 with the Township ordinances.

23 And just by way of background, at the
24 last meeting, we provided engineering and traffic
25 safety testimony. I want to reiterate the latter of

1 that traffic safety testimony that was brought by
2 Mr. Justin Taylor that the proposed modernization
3 would be safe that will have no negative impact on
4 traffic safety. Mr. Taylor's prior testimony that
5 the eight-second flip, which is the State standard,
6 is safe from a traffic perspective.

7 I do understand that the Board wants to
8 have a discussion about flip times. So that's
9 certainly something that we're willing to engage and
10 have that discussion. I just would say it might be
11 useful just to time that at the end of Mr. Taylor's
12 testimony tonight.

13 As far as how we're going to handle the
14 hearing tonight, we'll have some supplemental
15 testimony from Mr. Duarte, our engineer. We'll have
16 some supplemental testimony from Mr. Taylor. And
17 then we'll have our planning testimony by Mr.
18 McDonough.

19 CHAIRMAN FOOSE: I understood Mr.
20 Taylor was completed and wasn't able to make it
21 tonight. But he's here tonight?

22 MR. PURCELL: He's here, yes. He was
23 able to make it.

24 Just one housekeeping item. Who is
25 able to vote on this?

1 MS. WOLFE: I believe everyone has
2 been qualified. I know Ms. Guttschall, she had to
3 review it.

4 MR. FALLONE: I have not.

5 MR. WOLFE: Mr. Fallone has not.

6 MS. GUTTSCHALL: I was here the second
7 time.

8 MR. PURCELL: Okay. You listened to
9 all the tapes and certify --

10 MS. GUTTSCHALL: Yes.

11 MR. PURCELL: Thank you.

12 So first up, I'll call Mr. Duarte, our
13 engineer.

14 MS. WOLFE: You were previously sworn,
15 so you remain under oath.

16 - - -

17 TIAGO DUARTE, having been previously
18 sworn, testified as follows:

19 - - -

20 EXAMINATION BY MR. PURCELL:

21 Q. Mr. Duarte, there was discussion with
22 respect to concerns of vandalism at the site with
23 the subject sign and proposed upgrade to the sign.
24 Could you sort of go over any further research or
25 information for the Board on that issue?

1 A. Sure. The question of vandalism did
2 come up at the last meeting. We had internal
3 discussions and did additional research to put
4 measures that are in place to prevent vandalism at
5 the sign they are proposing in addition. So the
6 typical vandalism that you see on billboards is
7 somebody will write on it. The digital component
8 does not provide a catwalk, so there is no frame or
9 structure in front of the sign so you're not able to
10 access the front panels without a bucket truck or
11 something of that nature, or in this case, a 15-foot
12 ladder. But there is no catwalk, so you're not
13 going to be able to easily walk back and forth in
14 front of that sign base.

15 Additionally, there were talks about --
16 we reviewed just the work orders for the site. And
17 the sign, as it exists today, actually hasn't had
18 any recorded incidents for vandalism. So that's
19 another measure of research that we did. There's
20 been no incidents.

21 Q. Do you have any knowledge of any LED
22 multi-message signs being vandalized?

23 A. No, I'm not aware of any issues or
24 prior incidents.

25 Q. Mr. Duarte, can you go over the

1 structure itself, the modules, how they're bolted
2 onto the frame and how they're accessed?

3 A. Yes. The prior testimony, we brought
4 in the LED module, which is a 12-by-12 square that
5 are going to be mounted. So each of those modules
6 are bolted into a steel frame. I'll call it a
7 cabinet. So that's the front of the cabinet. They
8 are bolted from behind. And the cabinet is enclosed
9 in the back with a keyed locked door, so you cannot
10 access the front of it. You cannot remove the
11 module from the structure steel cabinet without
12 accessing it from the rear. And the rear is not
13 accessible without the key.

14 Q. The only way to get that key is that it
15 comes with the manufacturer of the unit, correct?

16 A. Correct. That's our understanding.

17 Q. Can you just, again, just reiterate how
18 the sign is monitored, the video, when it's
19 operational?

20 A. Yes. That also came up about
21 potentially removing a panel and what does that do
22 to the sign. So if one of modules are removed or
23 fail, there is an alarm triggered that sends a
24 signal to the central monitoring location for
25 Outfront. So there's that mechanism to track the

1 sign. And also, again, there's a camera that
2 records the sign 24/7 that picks up if there's an
3 issue and also provides notice to the headquarters
4 that there's a problem with the sign. And just
5 further to that point, the sign can be remotely
6 turned off. So if there's a problem or if they see
7 somebody on the sign, you can remotely turn it off.

8 Q. Is there anything that Outfront can
9 offer with respect to additional measures that would
10 hinder the ability of anyone attempting to mess with
11 the sign?

12 A. Yes. So additional vandalism
13 deterrents would be some two-story shrubs or a
14 planter basically, a steel pole, again, to keep
15 people away from it who have intentions of going up
16 to the sign. Outfront would also consider even
17 raising the sign if that was a further concern that
18 you could only access the sign with a ladder or a
19 rather large ladder.

20 Q. Having to do with the electrical
21 aspects to the modules and safety issues, can you
22 just, again, go over that? Obviously, they are
23 difficult to access, pursuant to your testimony. Do
24 the modules and the sign itself comply with the
25 National Electric Code?

1 A. They do. So the modules themselves
2 are UL certified. So Underwriters Laboratories
3 certifies a number of electrical products.
4 Basically, what that determines is that it complies
5 with any fire and safety measures, so the wiring
6 size is appropriate for the current for the demand
7 of the modules.

8 Q. The voltage of the module level itself
9 is relatively low, is that correct, essentially 5 to
10 10 volts?

11 A. Yes. Correct. So each of the panels
12 we showed, the 12 by 12 squares, what that draws is
13 5 to 10 volts. And what that equates to is a cell
14 phone charger.

15 MR. WEIDELI: Could I ask a question
16 while you're talking about it? The 12 by 12
17 squares, that's what you use on all the signs
18 basically? Now, is that a standard or just the one
19 you're going to use?

20 THE WITNESS: It's pretty typical.

21 MR. WEIDELI: What do you mean by
22 typical? 80 percent? 90 percent? 75 percent?

23 THE WITNESS: All the ones I've done
24 have been that size module, but there are some
25 smaller signs that could be used.

1 CHAIRMAN FOOSE: The signs on 202/206,
2 what are those? To the north about 15 minutes from
3 Bridgewater, heading towards Hackettstown, do you
4 know? Same equipment?

5 THE WITNESS: Do you know if they were
6 Outfront signs?

7 CHAIRMAN FOOSE: They were Outfront
8 signs, yeah. Everyone's nodding their head in the
9 affirmative.

10 MR. WEIDELI: What about those
11 humongous ones you see a hundred feet up in the air
12 on the highways? They're not 12 by 12.

13 THE WITNESS: They are.

14 MR. WEIDELI: They are?

15 THE WITNESS: Each of those 12 by 12s
16 are mounted on a steel array. That steel array is
17 what makes up the sign face.

18 MR. WEIDELI: Okay. So it's the same
19 design that you use on the smaller one that you will
20 use in Bridgewater?

21 THE WITNESS: Uh-huh.

22 CHAIRMAN FOOSE: Questions from the
23 Board?

24 If you're done, I just had a quick
25 question. This is in the light of Tesla chargers

1 and charging stations and high voltage. There
2 sounds like there's nothing here that we need to
3 brief our fire department or EMS or first responders
4 on in terms of voltage and first responding in terms
5 of safety and protecting?

6 THE WITNESS: Nothing out of the
7 ordinary. An electrical charger definitely has more
8 amps.

9 CHAIRMAN FOOSE: Very low voltage?

10 THE WITNESS: Yes.

11 CHAIRMAN FOOSE: Thank you.

12 MS. WOLFE: One question for me.
13 Would the Applicants be willing to planting such-
14 shrubs if the application is approved, or the
15 bushes?

16 THE WITNESS: If the Board wishes it,
17 the Applicant can stipulate to that.

18 CHAIRMAN FOOSE: Any other questions
19 for the Board?

20 Professionals?

21 MR. BONJIORNO: It concerns liability.
22 If someone should get up to the board or get hurt or
23 die, do we have any liability if we allow this to go
24 forward?

25 MS. WOLFE: I'm not a municipal

1 attorney. I'll preface with that. My immediate
2 instinct would be no. But what does Mr. Purcell has
3 anything to say?

4 MR. PURCELL: Well, I think,
5 obviously, the Tort Claims Act comes into effect
6 with respect to the municipal liability. And
7 obviously, so essentially, the Tort Claims Act,
8 you're not liable for anything unless the Tort
9 Claims Act says you are. And there are certain
10 categories of liability that municipalities have
11 subject to certain procedural requirements.

12 My understanding is that generally with
13 these types of policy decisions that the
14 municipality doesn't incur liability. That's
15 generally the case law with respect to that. But
16 that's just my -- I'm not representing the Township.
17 That's just my knowledge as a municipal attorney and
18 being involved in this area.

19 MR. BONJIORNO: I don't understand
20 what he just said.

21 MS. WOLFE: Normally, there's certain
22 exclusions for municipal liability. I believe if
23 the town is negligent or acted recklessly that there
24 would be liability, but if they're just doing their
25 job --

1 MR. BONJIORNO: We would not have
2 liability with the township, but who would have
3 liability if somebody gets hurt? Who are they going
4 to sue?

5 MR. PURCELL: Obviously, the liability
6 runs to the owner and operator of the sign. If
7 there is a issue with the property, that's a
8 liability of the property owner. But generally,
9 with respect to land use decisions, I'm not aware of
10 any precedent that allows the municipality to be
11 with respect to that in the Tort Claims Act.

12 MR. BONJIORNO: I have another
13 question. I'm looking at the local emergency
14 services LED multi-message sign protocol A. And I
15 see in the back, I see protocol B. But it says you
16 can call the police department. How long will it
17 take if the police wanted to put something up on
18 this sign? They'd make a phone call? Do they have
19 to submit a file of data? Or how does that work?

20 MR. PURCELL: Mr. Duarte, I don't
21 think you testified as to that. I think that was
22 something John Antal testified to. If you'd like, I
23 can have John Antal come up and respond to that
24 question.

25 MR. BONJIORNO: Sure. Great.

1 CHAIRMAN FOOSE: Let's finish up with
2 this witness and members of the public, unless the
3 board professionals. Members of the public, any
4 questions?

5 MR. BURR: Mr. Chairman, I do have one
6 question.

7 CHAIRMAN FOOSE: Please, Mr. Burr.

8 MR. BURR: I apologize if I asked this
9 at the last meeting, but in terms of maintenance of
10 this sign if it was to be approved and constructed,
11 how does that function? Would there be maintenance
12 personnel coming on a monthly basis, a few times a
13 year? How does that typically go with the LED
14 lights?

15 MS. WOLFE: It would be a handful, a
16 number per year. It wouldn't be monthly. Once it's
17 up and operational, unless there's some issue, there
18 really isn't much need for maintenance. So it's
19 just a checkup every couple months.

20 MR. BURR: And where would access be
21 gained to reach the sign?

22 THE WITNESS: From the rear of the
23 sign base.

24 MR. BURR: So from the interior of the
25 property?

1 THE WITNESS: Yes. Maintenance would
2 drive into the lease area. And from the lease area,
3 bring a ladder or whatever equipment necessary to
4 get up to the structure itself.

5 MR. BURR: So it would not be
6 necessary then to access the sign from the Route 22
7 shoulder?

8 THE WITNESS: Correct.

9 MR. BURR: Thank you.

10 CHAIRMAN FOOSE: Thank you.

11 Members of the public, any questions
12 for Mr. Duarte on his engineering testimony?

13 Seeing none, Mr. Purcell.

14 MR. PURCELL: Mr. Antal.

15 MS. WOLFE: For the record, you remain
16 under oath as well.

17 - - -

18 JOHN ANTAL, having been previously
19 sworn, testified as follows:

20 - - -

21 THE WITNESS: Yes, I understand.

22 MS. WOLFE: For the record, his name
23 is John Antal.

24 THE WITNESS: A-N-T-A-L.

25 MR. PURCELL: John, this gentleman

1 asked a question.

2 THE WITNESS: Could you repeat the
3 question? I think it was protocol A?

4 MR. BONJIORNO: Yes.

5 THE WITNESS: So the question was
6 regarding --

7 MR. BONJIORNO: This states that the
8 Police Department can ask that something be put up
9 on the sign. My point is how does that happen?
10 They make a phone call and what happens? Do they
11 have to submit a file? Would they have to relay
12 information? Do they scan something? How does that
13 work?

14 THE WITNESS: So when OEM or the
15 Police Department would like a message on the sign,
16 they would reach out to our 24-hour hotline either
17 by e-mail or through the phone number. Prior to all
18 of that happening, the town is assigned a specific
19 code, and there's a verification process. So when
20 the person does reach out, we verify that it is the
21 correct person talking to us and they have that code
22 to verify who they are. The message itself is
23 relayed to our people, whether that be verbally or
24 through an e-mail. They access that e-mail, like
25 some kind of simple text message. Our people

1 internally create it and display it on the sign. So
2 there would be nothing they would have to do other
3 than relay what words need to be put on the sign,
4 and it would then be displayed on the sign.

5 MR. BONJIORNO: That's a text message
6 for an accident or something else they want to
7 display?

8 THE WITNESS: Evacuation route,
9 something of an emergant nature.

10 MR. BONJIORNO: I believe in an
11 earlier discussion there was a topic covered that
12 there would be some sort of public service type of
13 messages that we could put on the board?

14 THE WITNESS: That was-protocol B,
15 yes.

16 MR. BONJIORNO: And how would that
17 work?

18 CHAIRMAN FOOSE: We've offered that
19 back to the Applicant in return for, hopefully, a
20 change in their eight-second flip. So we're not
21 asking for that.

22 THE WITNESS: Correct.

23 CHAIRMAN FOOSE: Only emergencies.

24 MR. BONJIORNO: Only emergencies.
25 Okay. Thank you.

1 CHAIRMAN FOOSE: Any other questions
2 for Mr. Antal?

3 Board professionals?

4 Members of the public?

5 Seeing none, Mr. Purcell.

6 MR. PURCELL: Mr. Taylor.

7 - - -

8 JUSTIN TAYLOR, having been previously
9 sworn, testified as follows:

10 - - -

11 EXAMINATION BY MR. PURCELL:

12 Q. Justin, can you just go over initially
13 -- I know you transmitted a letter to the Board
14 where you submitted a report with reference your
15 traffic study that we inadvertently --

16 A. The traffic study was not attached to
17 the letter. And I apologize about that. We did
18 submit the crash records, as requested.

19 Q. And then I guess we're going to go over
20 in short review issues related to the restaurant
21 right-of-way area, the restaurant row area, and some
22 pictures related to that.

23 MR. PURCELL: So, Mr. Chairman and the
24 Board, we have two exhibits. We'll mark as A-15,
25 aerial maps showing certain areas. And then A-14,

1 we have certain photos from the Restaurant Row area.

2 MS. WOLFE: A-14 was previously
3 introduced, correct?

4 MR. PURCELL: A-14 was previously
5 introduced. A-14 was the study abstract. I
6 submitted that at the last hearing.

7 (Exhibit A-15, aerial maps, marked for
8 identification.)

9 CHAIRMAN FOOSE: And just for the
10 Board's sake, can you define the Restaurant Row
11 maybe in mile markers or in streets? Just give us a
12 delineation.

13 THE WITNESS: Essentially, what we
14 looked at was the restaurant located to the west of
15 the property on 22, extending about from the Dunkin'
16 Donuts up to the KFC. That encompasses basically
17 all the restaurants through that section, plus some
18 other commercial uses.

19 CHAIRMAN FOOSE: So what's the
20 approximate length?

21 THE WITNESS: The approximate length
22 of that section, I don't know. What I can tell you
23 is from the billboard to the KFC, the eastern-most
24 portion of that, is about 4500 feet.

25 CHAIRMAN FOOSE: Gotcha.

THE WITNESS: That's essentially the purpose of the exhibit.

BY MR. PURCELL:

Q. Can you explain how you created it?

A. Sure. Referring to this, I believe we marked as A-16?

Q. A-15.

A. Okay. Referring to A-15, what we did was utilize a Murach aerial of the area locating both the proposed billboard on the upper half of this. I know it's pretty hard to read. I apologize. On the top half of A-15, we have on the right-hand side of the window, we have the proposed billboard addition.

CHAIRMAN FOOSE: Mr. Taylor, why don't you grab the wireless mic? It's right on the lectern right there. Thanks.

THE WITNESS: So the top half of A-15 is shown, the right-hand side, the proposed billboard location, extending all the way to the left. And what we looked at was the viewshed that's available from each one of these from that location and then gradually moving to the east as you travel eastbound on Route 22.

What we tried to do was color code the

area to kind of give a couple different snapshots of what the distance would be. So this first salmon color is about 4500 feet from the KFC to the proposed billboard addition. What it shows is that that line of sight, because of the curvature of Route 22, actually travel through the Fullerton Auto Group building as well as the Bolero and foliage in front of several of the office buildings along Route 22.

The next line, which is more of an orange color, what we attempted to do was to snap along that just missed the eastern-most building here which would be the cavity of the Bowlera. That is approximately 3,000 feet away. However, that still travels directly through trees in front of both the office building and the Allstate building adjacent to our property.

The orange represents 3500. The yellow represents 3,000 feet. The green represents 2,000 feet, still traveling through a couple trees in front of the Allstate building. And, again, so it's not until about 1,000, as I previously testified at the last meeting, that you really have an effective visibility of the entire billboard.

So what we really wanted to illustrate

through that is that there's really no interaction with the entering and exiting traffic that's going on down by Buffalo Wild Wings and KFC and all the businesses in that area. It's really not until the thousand feet away that we're within that influence area of the proposed billboard.

BY MR. PURCELL:

Q. Mr. Taylor, just looking at these pictures again, who prepared these pictures?

A. Our office prepared them.

Q. And where are they taken?

A. So the top picture is taken from the right lane just past the overpass.

Q. That's the grove tree overpass, correct?

A. That's correct. And then the second picture is a little further back from that. You can see both the Wendy's and the KFC sign.

So what you can see is as you're looking eastbound, all the signage associated with the uses between the overpass and the proposed billboard are within there and all the buildings that are on the right-hand side of Route 22.

Q. Mr. Taylor, as I look at these pictures and look straight ahead, it almost seems like it's

coming out from the center of the road, but I think that accounts for the curve. You can sort of see a little red face, and I think that's the Midas building, it's the Midas sign that's right next to there. How far is that Midas sign from the subject?

A. The Midas sign is about 2,000 feet, maybe a little bit over 2,000 feet from our proposed billboard.

Q. The picture here that, again, you can sort of barely make it out in distance, again, you can see that it's a curve that sort of moves this. It looks like it's in the center of the road. Obviously, we know it's not. It's still a fair distance away from the proposed site?

A. Yes, that's correct.

The other half of this exhibit was in response to another concern that was brought up. What we wanted to do is just kind of illustrate how the distance between the proposed billboard and then the divergent where you have between 22 and 287.

As you can see on the bottom half of this diagram, this exhibit, it's 4,158 feet from the proposed billboard to the diverged area. And at 55 miles an hour, that's 51.52 seconds of travel time between when you pass the proposed billboard

1 and when you would need to make the ultimate
2 decision to get on 287 or stay on 22. So there's
3 really not any safety concern with the proximity of
4 the 287 ramp and the proposed billboard.

5 Q. Fifty-one seconds, obviously, is
6 adequate time to be able to get into the left lane?

7 A. That's correct, to make your decision
8 whether you were traveling staying on 22 --

9 CHAIRMAN FOOSE: How many seconds?

10 THE WITNESS: 51.52.

11 CHAIRMAN FOOSE: Wait a second.

12 You're telling me from the interchange -- from the
13 billboard to the interchange at 287 is 51 seconds?

14 THE WITNESS: That's correct.

15 CHAIRMAN FOOSE: I don't know what
16 highway you're on, but 287 south has an entrance
17 just after the Bridgewater Diner on the left.

18 THE WITNESS: Correct. It's
19 4,158 feet.

20 MR. WEIDELI: It's not that far.

21 CHAIRMAN FOOSE: Absolutely incorrect.

22 MR. WEIDELI: It can't be. I drive
23 it --

24 CHAIRMAN FOOSE: Absolutely incorrect.

25 THE WITNESS: This drawing is to

1 scale. It's 4,152 feet --

2 CHAIRMAN FOOSE: It's not 51 seconds.
3 It's just wrong. I don't know what the exact number
4 is. I've lived in this town for 25 years.

5 THE WITNESS: At a rate of speed of
6 80 feet per second, which is 55 miles an hour --

7 CHAIRMAN FOOSE: The Nissan dealership
8 is parallel to the 287 interchange.

9 Scarlett, maybe you can chime in here.

10 MS. DOYLE: I think what might be
11 helpful is that you are saying that Route 287 is
12 51 seconds. However, the approach towards 287 is
13 almost at the diner.

14 CHAIRMAN FOOSE: It's right there.

15 MS. DOYLE: It's a very long approach.

16 MR. WEIDELI: I drive it every day.

17 CHAIRMAN FOOSE: Absolutely not
18 correct. In fact, I'll stop this meeting and bet
19 you anything in the world, let's go out there and
20 prove it, 51 seconds. Right after the Bridgewater
21 Diner, a new lane emerges, and that's the entrance
22 to 287 south on the left. It is not 51 seconds. If
23 it's 10 seconds, I'd be surprised.

24 THE WITNESS: The diverge where it
25 splits, two lanes stay on 22, two lanes go to 287.

1 The point of that diverge, you have to finally make
2 the decision to either go to 287 is, all I can say,
3 is 4,158 --

4 CHAIRMAN FOOSE: It's not 51 seconds.
5 It's just not. It's just incorrect.

6 MR. PURCELL: Most folks maybe don't
7 55 miles per hour or some folks don't go 55 per
8 hour --

9 THE WITNESS: At a rate of speed of
10 80 feet per second, to travel 4,158 feet is
11 51 seconds.

12 CHAIRMAN FOOSE: Now, are you sure
13 that's not the point on which you're on 287?

14 THE WITNESS: At the very point of the
15 split. It's simple mathematics that we're talking
16 about. I understand you guys are upset. I'm not
17 trying to --

18 CHAIRMAN FOOSE: Let's let Scarlett
19 chime in.

20 MS. DOYLE: If you're at the split,
21 it's too late.

22 THE WITNESS: Understood.

23 MS. DOYLE: It's before you get to the
24 split, which is about very near the diner that you
25 have to make your decision. It is not at the split.

1 By the time you're at the split, you cannot possibly
2 make that split-second, a fraction of a second.

3 THE WITNESS: I understand. What I'm
4 saying is you have 51 seconds to make that
5 determination. So it takes you 19 seconds until you
6 can get to the first overhead sign that says 287 to
7 the left and 22 to the right.

8 MS. DOYLE: But the decision is not
9 made at the split.

10 THE WITNESS: No, no, no. Understood.

11 MR. WEIDELI: When I went down to
12 Piscataway today -- I live right back here. I drive
13 probably 25 times to 30 times a week, if not more.
14 Before I get to the diner, I have to decide if I'm
15 going to go down 22 -- like yesterday to go to my
16 car at Nissan, stay over to the right, or I'm
17 staying over towards the left and all the people
18 coming in and out. I have to decide, and it's not a
19 minute past that I have a choice.

20 THE WITNESS: Not to belabor the
21 point. All this is intended to show is there is
22 4,000 feet between when the diverge happens and
23 where the billboard is. That's all that shows, is
24 that the influence area of the billboard has no
25 bearing on the split between 287 and 22.

CHAIRMAN FOOSE: Mr. Taylor, you make me want to hire a traffic engineer. That's what it comes down to.

Mr. Purcell, I think we have a massive divergence. I'm certainly not a traffic expert. I don't believe this.

MS. AMIN: Mr. Chairman.

CHAIRMAN FOOSE: Ms. Amin, go ahead, please.

MS. AMIN: Based on what you're saying, at 55 miles speed if someone is going, it takes almost one minute. That is equal to one whole mile, that's what you're trying to tell us. Translated, it's one mile distance from that point to 287? It is not one whole mile.

CHAIRMAN FOOSE: Mr. Purcell, maybe we can accomplish some forward progress in another way. Based on A-15 in the first graphic, the above graphic, it looks to me Mr. Taylor is basically saying that in a thousand feet, that's the visible distance. He's testifying to that. Your previous expert, your engineer, talked about the modular aspect and the fact that .3 footcandles at the output. I'm throwing this out there. Is there potentially a stipulation where you could say that

anything past 1100 feet, you would stipulate to that would be only visible -- the maximum visible distance and you could adjust it if it was to be seen past 1100 feet, which according to Mr. Taylor's testimony here, it won't be, that we can have this turned down?

MR. PURCELL: I think what Mr. Taylor's testimony was that it's effectively visible.

THE WITNESS: That's correct. There's a difference between visible and effectively visible.

CHAIRMAN FOOSE: Right. And this Board -- and I think the whole genesis of this conversation is about safety. If we can keep the maximum visible distance to within that 1,000 feet, that would go towards safety, correct?

THE WITNESS: No, I don't draw that correlation.

CHAIRMAN FOOSE: Again, I don't think you leave us much choice here, Mr. Purcell. I think Board needs to pursue their own independent traffic engineer. I'm just not satisfied with 51 seconds. In reality, 287 interchange begins right after the Bridgewater Diner.

MR. PURCELL: Obviously, Mr. Taylor is a traffic engineer. He has experience. He's been accepted by the Board as an expert. His testimony is based on his analysis and mathematical analysis and study. We would take the position, obviously, that his testimony is fairly simple, fairly straightforward. It really doesn't need to be second checked, but if that's something that the Board wishes to do, it's certainly within the parameters of what it could do. It just seems --

CHAIRMAN FOOSE: I think that's where I'm at right now with the Board in terms of safety. For me to feel good about this -- Scarlett, why don't you chime in here?

MR. WROBEL: I think we're kind of splitting hairs, talking about two different things here. From the split to the billboard, you are correct, it is roughly 51 seconds, doing the math. However, I think what the Board is saying is that you don't really get until the split to decide. Realistically, you get until the diner to decide, which is roughly -- I do the math roughly, not being an engineer, roughly 25 seconds. And if you're going 55 miles an hour -- as we know the rule in New Jersey is if you're going 55, you're going 64.

MS. WOLFE: None of my board members.

MS. DOYLE: To expand this a bit and possibly to segue, I noticed that you gave a thousand -- your chart, what is that, A --

THE WITNESS: A-15.

MS. DOYLE: Okay, A-15. You gave 3500 is one. But I'm looking at the graphic where 1500 -- in other words, between 1,00 and 2,000 is not identified, and yet that's really -- to talk about the 4500 and the 3500 is meaningless because you've already proven that that's not effective. However, I'm looking at 1500, and I clearly see with my eyes, which are not your traffic trained eyes, I clearly see 1500 will work as well.

THE WITNESS: I would disagree with you. And we did look at it. There is dense foliage located in the northwest corner of the Allstate building directly to the west of where we are. It's almost right up to the curb line.

MS. DOYLE: But that can die.

MR. WEIDELI: Can I interrupt? Mr. Taylor, I have a question. I base all of my -- when I look at every application, I drive them, especially this one because it's new to us and everything else. I based all mine on 1500 feet from

1 seeing it. So you're using a thousand. I don't
2 know 3,000 or 4,000 has to do with anything in this
3 whole discussion on A-15, personally. But you can
4 see it from -- I did all my calculations based on
5 1500 feet. You're using a thousand, and it's a
6 totally different scenario.

7 THE WITNESS: So a thousand feet is
8 based on effective visibility from the right lane of
9 Route 22.

10 MR. WEIDELI: And so is 1500.

11 THE WITNESS: So from 1500 feet,
12 because of the foliage located along the highway,
13 you cannot effectively --

14 MS. DOYLE: From the left lane as
15 well?

16 THE WITNESS: No, from the right lane.

17 MS. DOYLE: I'm talking about the left
18 lane.

19 THE WITNESS: So we have it from the
20 most conservative aspect to this, given the cone of
21 vision as you travel along it. If you're in the
22 left lane, yes, it would be visible for longer, but
23 the perception, the comprehension of what's on that,
24 starts to lose relevance the further out you go;
25 one, because you won't be able to read the text

1 type; and, two, because in the right lane you have
2 the foliage that's in the way.

3 MS. DOYLE: So you're saying -- there
4 is a driveway just right at the 1500 mark. So you
5 are saying that if this Board would go out during
6 the day and are at that driveway that's going into
7 the property, they could not see your sign at all?
8 Is that what you're saying?

9 THE WITNESS: No, that's not what I'm
10 saying at all. What I'm saying is that that
11 billboard will not be effectively visible in the
12 right lane at that distance.

13 MR. WEIDELI: What about the other
14 lanes and the thing flashing every 8 seconds? Yes,
15 you will see it. It's a safety issue.

16 THE WITNESS: In the left lane, you
17 will see it from there. Bit all the studies that
18 I've provided testimony on in the previous hearing
19 showed that within an 8-second flip, there is no
20 safety concern because that's not how drivers
21 perceive visual billboards. They intake the data,
22 fixate on the billboard for 0.39 seconds, continue
23 about their driving. If they're interested, they
24 will fixate again of about a second.

25 CHAIRMAN FOOSE: Mr. Taylor, from any

1 of the lanes, what is the maximum visible distance
2 of this billboard?

3 MR. WEIDELI: It would have to be left
4 lane.

5 THE WITNESS: I can't give you that
6 exact number because we didn't look at it. It's not
7 a relevant point to the effective --

8 MR. WEIDELI: Ninety-eight percent of
9 the time, I drive in the center lane, and I can
10 easily see that from 1500-plus feet. So I don't
11 understand why we have a thousand and then go to
12 3,000. It's irrelevant to me.

13 THE WITNESS: I think it's the way in
14 the traffic industry, we define effective
15 visibility, not visibility. You may be able to see
16 the billboard, a tiny corner of the billboard, from
17 1500, from 2,000 feet, but that's not what's
18 relevant as you're trying to perceive the billboard.
19 You need to be able to see within legibility
20 distances and you need to be within clear sight
21 lines of the vast majority of that billboard in
22 order to receive the message that's on there. When
23 we do calculations, that's what we look at to ensure
24 that there's a long enough read time for somebody to
25 safely fixate, go back and drive, if they're

1 interested in what's in the message of the
2 billboard, take another glance. And so what we
3 proved was there was 10.5 seconds of effective
4 visibility for this billboard. There will be plenty
5 of time for a driver to recognize the billboard,
6 receive the message, and continue driving. Even if
7 there was a flip in that time, they have the ability
8 again --

9 MR. WEIDELI: So it would be?

10 THE WITNESS: Yeah, there most likely
11 would be. But, again, what you're doing is you're
12 dwelling upon the message on the billboard for a
13 little over one second.

14 CHAIRMAN FOOSE: Mr. Taylor, did you
15 testify you did a crane test on this site?

16 THE WITNESS: I was not present at the
17 crane test. The billboard, I think, is being
18 replaced essentially is in the same location, but I
19 was not involved in the crane test.

20 CHAIRMAN FOOSE: Was there any test
21 that would provide for the maximum visible distance
22 from any lane that was conducted on this
23 application?

24 THE WITNESS: I mean, you could go out
25 there and walk the highway --

CHAIRMAN FOOSE: Mr. Taylor, I'm not trying to be a bad guy. I'm trying to protect people. I do not want to go guess and, God forbid, have an accident in this area because someone could have done something here. I want to prevent an accident. I want to make sure this is as safe as can possibly be.

THE WITNESS: I think that's a great --

CHAIRMAN FOOSE: I do have some questions for you. I'm sorry it's going repetitive, but I want to put it on the record. But I do feel that we're kind of at a point in which I don't hear any resolution. We can't find out the basic distance where this is even going to be visible from.

MS. WOLFE: Would it be helpful if the Board retain an expert and maybe that expert review these studies as well any other studies that might be relevant?

CHAIRMAN FOOSE: Mr. Taylor testified at the December 7th hearing that in the last decade there's been no substantial research or studies that have been conducted that would go against any of his testimony that he provided that evening. Is that

correct, sir?

THE WITNESS: Yes, that's correct.

CHAIRMAN FOOSE: Are you familiar with Jerry Wachtel, President of Veridian Group, who prepared for the California State Department of Transportation Legal Division 27 studies since 2012?

THE WITNESS: I am not, no.

CHAIRMAN FOOSE: I'm going put that on that on the record. Perez, et al, 2012, Washington, D.C., have you heard of that study? Perez, 2012, Washington, D.C.?

THE WITNESS: Peripherally.

CHAIRMAN FOOSE: Yes or no.

THE WITNESS: Peripherally. I'm aware that there's a study, yes.

CHAIRMAN FOOSE: Are you aware that in the study, the participants in the study did gaze more often at digital billboards than to other signs, in some cases twice as much? Are you aware of that?

THE WITNESS: I'm aware of the FHWA study that says that, yes --

CHAIRMAN FOOSE: That wasn't my question. Are you aware of a study that said that participants in this study did gaze more often at

digital billboards than to other signs, in some cases more than twice at much?

THE WITNESS: I can't --

CHAIRMAN FOOSE: I'm asking you if you understand what this study said.

THE WITNESS: I understand what you're quoting to me. I have not had a chance to fully research that study to be able to comment. Again, I have to go back to FHWA has stated that the glances --

CHAIRMAN FOOSE: That's not the question I asked you.

THE WITNESS: No, but there's a basis from what I build my opinions off of, and I rely on the federal government more --

CHAIRMAN FOOSE: This was a study presented to the California State Department of Transportation Legal Division, which they took action, October 16, 2020.

THE WITNESS: Okay. I'm not aware of that.

CHAIRMAN FOOSE: We're going to go to the next one. Divekar, 2013, Amherst, Washington.

THE WITNESS: I'm not aware of that.

CHAIRMAN FOOSE: Hawkins, College

Station, Texas, 2014.

THE WITNESS: No.

CHAIRMAN FOOSE: Schieber, 2014, USA, Vermillion, South Dakota.

THE WITNESS: Who reported these studies?

CHAIRMAN FOOSE: Schieber.

THE WITNESS: And who is Schieber?

CHAIRMAN FOOSE: Prepared a study for the California State Department of Transportation Legal Division, presented August 16, 2020, for action.

THE WITNESS: And that's Schieber?

CHAIRMAN FOOSE: Sure. I'll read it again to you. That study was Schieber, 2014, Vermillion, South Dakota.

THE WITNESS: Okay.

CHAIRMAN FOOSE: You've heard of that one?

THE WITNESS: I have not, no.

CHAIRMAN FOOSE: Okay, that's all I'm asking, if you've heard of this. Sisiopiku, USA, Birmingham, Alabama, 2015?

THE WITNESS: No.

CHAIRMAN FOOSE: Wilson & Casper,
2016, Washington, D.C., USA?

THE WITNESS: No.

CHAIRMAN FOOSE: Belyusar, Cambridge,
Massachusetts, 2016?

THE WITNESS: No.

CHAIRMAN FOOSE: Mr. Taylor, the only
reason I put these on the record is because these
were pulled from the U.S. Department of
Transportation website, and they certainly are all
within the last decade. And it goes contrary to
your testimony that there no studies, no other
evidence in the past decade.

MR. PURCELL: Hold on one second.

Mr. Chairman, I just want to take issue
with the fact that obviously those reports haven't
been entered into evidence. Mr. Taylor hasn't been
able to review them, he hasn't been able to comment
on them. And you asked whether he's familiar or not
with a report --

CHAIRMAN FOOSE: Mr. Purcell, he cast
a very, very large net at the last meeting. He said
there's been no definitive studies done in the past
decade. Now if you put that in the context of his
testimony about 51 seconds between Route 287, I

think we're in no other position than to hire our
own traffic engineer because, frankly, Mr. Taylor is
leaving out precious information that I think would
help us come up a safer outcome in this case.

MR. PURCELL: Mr. Chairman, obviously,
that is your prerogative to take that position. We
would just say that, obviously, we had to put
traffic testimony, testimony that, frankly, is based
on the reports and the federal standards that we've
discussed.

With respect to hiring a traffic
engineer, if that's what the Board wants to do,
obviously, we think that is unnecessary, but that's
the Board prerogative to do that.

CHAIRMAN FOOSE: Help me get to a
safer place.

MR. PURCELL: So you want to talk
about flip times? Do you want to talk about flip
times, have that discussion? I mean, if you take
the position that we cannot move any further without
the Board having a traffic engineer, but we can have
a discussion about flip times. You want to have
that discussion?

CHAIRMAN FOOSE: It's your case, Mr.
Purcell.

MR. PURCELL: Well, I agree with
that --

CHAIRMAN FOOSE: I don't want it to be
framed up when this goes to court, if it goes to
court, that I told you how to run your case.
Certainly, I am not telling you how to run your
case.

MR. PURCELL: So moving on to the next
issue, there was a discussion of flip times at the
prior hearing. Obviously, I mentioned previously
Outfront is more than happy to have that discussion.
As presented by Mr. Taylor, 8 seconds is the State
standard, 8 seconds is safe on a number of different
levels. But, obviously, we understand that there
may be a certain sense of comfort the Board may have
by increasing those flip times.

Mr. Chairman, you raised a possibility
of essentially setting a set standard flip time
greater than 8 seconds and essentially decreasing
that over time when certain parameters were hit. We
did discuss that with Outfront corporate office.
That's a very interesting and unique idea. They
hadn't heard of that before. Unfortunately, they
are not willing to engage with. It's very
administratively kind of complicated. But they

would be willing to increase the 8-second flip time.

Essentially, we were discussing a
moment ago with Mr. Taylor and was discussed
previously at prior hearings the effective view time
for the subject sign would be approximately
10.5 seconds. So that would be the benchmark that
we could at least start the discussion. That
10.5 seconds is the time period by which generally
someone is driving within the view area of the sign,
the effective view area of the sign. They would
only really have one flip while they're within that
area. Obviously, that's the concern.

Am I correct, Mr. Taylor, just on the
record, that 10 seconds or 10.5 seconds would
effectively one flip?

THE WITNESS: Yes, that's correct.

CHAIRMAN FOOSE: We left off, I think,
with Mr. Fresco had a question on this.

MR. FRESCO: You spoke about it last
time. Can you testify to the fact that --
10.5 seconds is based on how many feet?

THE WITNESS: Based upon 845 feet of
effective visibility.

MR. FRESCO: 855 or 845?

THE WITNESS: I apologize. It's 845.

1 I misquoted myself.

2 MR. FRESCO: Does that include the
3 20 percent zone.

4 THE WITNESS: That is the entirety of
5 the 20 percent.

6 MR. FRESCO: And the 20 percent and
7 the 40 -- I'm sorry, the 20-degree zone?

8 THE WITNESS: So it encompasses the
9 full 40-degree cone of vision, not necessarily the
10 additional 80-degree cone of vision, but the
11 40-degree cone of vision.

12 MR. FRESCO: Does it include the
13 20 percent zone?

14 THE WITNESS: I'm not sure what you
15 mean by 20 percent zone.

16 MR. FRESCO: You said 80, so I'm
17 thinking.

18 A. There's a 40-degree, which 20 degrees
19 either side and. And then there's an 80-degree,
20 which 40 degrees to either side. 845 feet is the
21 40-degree cone of vision. So that's that distance,
22 not the additional 80-degree cone of vision. You're
23 in the peripheral side of vision.

24 MR. FRESCO: Well, but how far would
25 you be to be in that peripheral cone of vision? It

1 would be like this, it would be right there. I
2 mean, it's only 55 and we're all sort of conditioned
3 to driving much faster than that, so...

4 THE WITNESS: So the 80-degree cone of
5 vision is an additional distance of approximately
6 85 feet or additional 1.1 second.

7 MR. FRESCO: So how long then -- it's
8 85 plus your 845, right?

9 THE WITNESS: That's correct.

10 MR. FRESCO: So can you just tell us
11 then, for the record, how long it's going to take us
12 to get through that entire span?

13 THE WITNESS: At 55 miles an hour, it
14 would be 11.6 seconds.

15 MR. FRESCO: Can you also just clarify
16 again how far you think then -- you're saying it's
17 visible from how many feet?

18 THE WITNESS: It's effectively visible
19 from the right lane at a thousand feet.

20 MR. FRESCO: So can you put on the
21 record how long is it going to take to get through
22 the thousand feet?

23 THE WITNESS: To travel 1,000 feet,
24 not in regards to visibility of the sign, but just
25 how far to travel a thousand feet at 55 miles an

1 hour?

2 MR. FRESCO: Yes.

3 THE WITNESS: Give me one second.
4 12.39 seconds.

5 MR. FRESCO: Thank you. We sort of
6 danced around that last time. That was the math I
7 had. I wanted to get it on the record.

8 THE WITNESS: There's a difference in
9 visibility of the sign versus the actual distance of
10 a thousand feet. I think that's what the disconnect
11 is. I apologize.

12 MR. FRESCO: Thank you. That's all.

13 CHAIRMAN FOOSE: So, Mr. Purcell, it
14 sounds like a thousand feet is the magic number, the
15 visibility. And, of course, every board in New
16 Jersey wants to strive not to be arbitrary nor
17 capriciously, so we want to come up with an absolute
18 concrete way that you would agree with to create the
19 safest zone of visibility. And me, as a voter --
20 I'm only one. But for me, I think that only having
21 one visibility, one object in a viewer's eyesight
22 for those 1,000 feet, I think that would be the
23 safest situation that you could present. I could be
24 wrong, but I'm curious your thoughts on that.

25 MR. PURCELL: I'm not a traffic

1 engineer.

2 THE WITNESS: I would say based upon
3 the analysis that I presented and the research that
4 I've done and the federal studies and the 8 seconds
5 that's recommended by the federal government -- I'm
6 not here you argue your opinion on what the safest
7 thing is -- I don't see a correlation safety between
8 the number of flips along the highway.

9 MR. PURCELL: But is 12.39 seconds the
10 request that was forwarded?

11 CHAIRMAN FOOSE: I don't have a
12 request. I'm just thinking out loud that perhaps
13 12.39 seconds may be what some Board members are
14 thinking in their mind may be a safer situation than
15 8.

16 Scarlett has something to add.

17 MS. DOYLE: I have a question. We'll
18 assume your 8 seconds. I will also assume that for
19 12.3 seconds, they can discern a sign. I'm not
20 going to say they can read it. They can certainly
21 discern that there is a sign there with the lights,
22 12.3 seconds. You say that a person only fixes on
23 it for about .3 seconds.

24 THE WITNESS: Yeah, 3.7 for a digital
25 billboard.

1 MS. DOYLE: So let's say .4 seconds,
2 just for the purposes of this.
3 THE WITNESS: Yep.
4 MS. DOYLE: All right. So I'm driving
5 towards this. I'm fixing on a sign for .4 seconds
6 and it flips. Now I go another 8 seconds, and it
7 flips again. Would you agree there would be three
8 different messages for the first .4 seconds, for the
9 next 8 seconds is another thing, and then I have
10 another .4 seconds or more because it's 12.3.
11 THE WITNESS: Yes, there's a potential
12 to see three images with an 8-second flip.
13 MS. DOYLE: Thank you, Mr. Chairman.
14 MR. PURCELL: Did we do that analysis
15 with a 12-second flip?
16 THE WITNESS: For the 12-second flip,
17 there would be the potential to see two images.
18 MS. DOYLE: I just said three and you
19 said yes.
20 THE WITNESS: No, no, no. A
21 12.3-second flip, there's potential to see --
22 MS. DOYLE: Three different messages.
23 MR. WEIDELI: At 8 seconds. At 12.3,
24 only two.
25 MS. DOYLE: Oh, if it was 2.3, I

1 understand.
2 THE WITNESS: 12.3.
3 MS. DOYLE: 12.3, then you would have
4 two flips.
5 THE WITNESS: 8 seconds has the
6 potential to see three images.
7 MS. DOYLE: I understand. I'm sorry.
8 THE WITNESS: The 12.3, there's the
9 potential that somewhere along that, you're within
10 the zone.
11 CHAIRMAN FOOSE: Mr. Purcell, if
12 that's what you're thinking about stipulating to, I
13 don't want you to think THAT you have to do this. I
14 MEAN, this is certainly your call. By all means, if
15 Mr. Taylor was to come back in subsequent years and
16 say that the ratio was .19 or better or the
17 situation had improved, by all means, I would
18 encourage you to come back before this Board and
19 let's get you to 8 seconds.
20 MR. PURCELL: Can I just take a
21 few-minute break and go back and chat with my
22 client?
23 CHAIRMAN FOOSE: We're adjourn. It's
24 8:27. We'll come back at 8:35.
25 (Recess taken.)

1 CHAIRMAN FOOSE: It's 8:35. We're
2 going to go back in session.
3 Do you mind doing a roll call for us,
4 please?
5 THE SECRETARY: Yes, Mr. Chairman.
6 Mr. Foose.
7 CHAIRMAN FOOSE: Here.
8 THE SECRETARY: Mr. Weideli.
9 MR. WEIDELI: Here.
10 THE SECRETARY: Mr. Fallone.
11 MR. FALLONE: Here.
12 THE SECRETARY: Mr. Sweeney.
13 MR. SWEENEY: Here.
14 THE SECRETARY: Ms. Gutschall.
15 MS. GUTTSCHALL: Here.
16 THE SECRETARY: Ms. Amin.
17 MS. AMIN: Here.
18 THE SECRETARY: Mr. Fresco.
19 MR. FRESCO: Here.
20 THE SECRETARY: Mr. Wrobel.
21 MS. WROBEL: Here.
22 THE SECRETARY: Mr. Bonjorno.
23 MR. BONJIORNO: Here.
24 THE SECRETARY: Thank you.
25 CHAIRMAN FOOSE: Mr. Purcell.

1 MR. PURCELL: Thank you, Mr. Chairman.
2 I did have a chance to have a quick discussion with
3 my client on this matter. And, again, just to
4 preface -- I know I said this before and a couple of
5 our witnesses have said this. But the license that
6 our client holds in the New Jersey Department of
7 Transportation, that 8 seconds license, obviously
8 takes to account all traffic considerations. That's
9 their opinion, that this is a safe license and a
10 safe location. I want to reiterate that.
11 Having said that, again, we understand
12 the Board may have some level of comfortability with
13 the application that our client would be okay if the
14 Board looks favorable upon this application to
15 stipulate to a 12-second flip. Apparently, we can't
16 do .4 with that.
17 CHAIRMAN FOOSE: Would you consider
18 rounding that up, because 12.3 is 12.3. I think 13
19 seconds would be looked upon favorably, at least by
20 myself.
21 MR. PURCELL: We will round up to 13.
22 MR. WEIDELI: So you're agreeing to
23 round up to a 13-second flip? And then I would also
24 agree to the fact you come back in two years and if
25 it's been a safe area and no issues, I have no

1 problem with bringing it down to the 10 range,
2 wherever you're looking at.

3 MR. PURCELL: Obviously, we can always
4 come back to the Board to get a change. We
5 appreciate that position.

6 MR. WEIDELI: Mr. Taylor, he used a
7 thousand feet. I've lived here for 29 years. I
8 based mine more on a 12 to 1300 feet. He used a
9 thousand. So I used a little bit more, so
10 13 seconds.

11 CHAIRMAN FOOSE: Mr. Purcell, if you
12 wanted to work with our Chief of Police, Chief
13 Payne, he said this was very easy to generate this
14 data and he would be happy to supply the team with
15 subsequent years. We can write this resolution and
16 we can move you towards the 8 seconds if this is
17 something that -- you know, I don't want this to be
18 a one-sided transaction. So if this was an equal
19 safer thoroughfare in subsequent years, I know three
20 years of traffic in this case, if you wanted to
21 write the resolution and three years out --

22 MR. PURCELL: I appreciate that. I
23 appreciate that offer, Mr. Chairman. I think,
24 again, from a corporate perspective, I just think
25 keep they try to be as standardized as possible. It

1 just seems like that initiative would be too much.

2 CHAIRMAN FOOSE: I just want to be on
3 the record that offered that. Thank you.

4 MS. WOLFE: The 13 seconds flip, we
5 still do not have PSA time, correct?

6 MR. PURCELL: We would have -- as Mr.
7 Antal stated, there's a general, as available,
8 ability to use.

9 CHAIRMAN FOOSE: Something like an
10 amber alert.

11 MR. WEIDELI: Emergency, storm coming,
12 flooding.

13 CHAIRMAN FOOSE: We don't need the
14 high school course to be up there.

15 Any questions for Mr. Taylor and his
16 testimony?

17 MS. WOLFE: Are we assuming that --
18 we're not worried about it being visible beyond a
19 thousand feet?

20 MR. WEIDELI: It doesn't matter now
21 with the 13 seconds.

22 MS. WOLFE: Is Board on board with
23 that? Or was the Board looking for that distance?

24 MR. WEIDELI: No. It doesn't matter.
25 It's irrelevant.

1 MR. FRESCO: We're deliberating
2 obviously.

3 MR. WEIDELI: I just used a different
4 scenario. He used a thousand. That's fine.

5 MS. WOLFE: More referring to the
6 brightness.

7 MR. WEIDELI: It's fine, it's
8 13 seconds.

9 CHAIRMAN FOOSE: Any further questions
10 of Mr. Taylor's testimony?

11 Board professionals, Mr. Taylor?

12 Members of the public, Mr. Taylor's
13 traffic testimony?

14 Seeing none, Mr. Purcell.

15 THE WITNESS: Thank you very much.

16 MR. PURCELL: We're going to call John
17 McDonough, a professional planner.

18 - - -

19 JOHN MCDONOUGH, having been previously
20 sworn, testified as follows:

21 - - -

22 EXAMINATION BY MR. PURCELL:

23 Q. Mr. McDonough, can you just go over
24 your qualifications and education and your current
25 licenses, et cetera?

1 A. Sure. Hi again, everyone. I'm a
2 licensed professional planner here in the State of
3 New Jersey. I'm also a member of the American
4 Certified Planners. That's our national
5 certification. Both are current and in good
6 standing. I've testified in this capacity
7 throughout the State of New Jersey in the
8 surrounding towns, and I've actually been here
9 multiple times as well.

10 MR. PURCELL: Mr. Chairman, I ask Mr.
11 McDonough be accepted as an expert in planning.

12 CHAIRMAN FOOSE: We accept him.
13 Please continue.

14 BY MR. PURCELL:

15 Q. Mr. McDonough, would you just provide
16 your opinion, just an overview of the site, just
17 generally some information with respect to this
18 particularity of this location?

19 A. Sure. I gave the Board last hearing
20 an outline of the four sections of the ordinance
21 that the relief is being requested from, and I'll
22 put forth proofs in that regard this evening. I'll
23 lead off with context is key. Context is key for
24 any land development application, any land use
25 application. I think we'll go right into the bat

1 with some visuals here.

2 And, Mr. Chairman, as they're being
3 handed out, I'm going to use this as a predicate for
4 my planning conclusions for the physical
5 environment. And I'll also, of course, absorb the
6 testimony of the witnesses before me related to the
7 mechanics of the plan, the traffic safety, and the
8 like.

9 Q. Mr. McDonough, this is a set of drone
10 photographs that were taken by you or under your
11 direction, correct?

12 A. That's correct. I don't fly the
13 drone. I have a licensed operator.

14 MR. PURCELL: And I think we're
15 marking it A-17.

16 MS. WOLFE: How many pages is this?

17 THE WITNESS: It is seven.

18 MS. WOLFE: Was that fairly recently?

19 THE WITNESS: They are dated. The
20 drone was shot in December. There's one shot at the
21 very end, it's a nighttime shot that I took from the
22 ground. That's actually taken on October 5th.

23 MR. WEIDELI: These are only a couple
24 weeks old then?

25 THE WITNESS: Yes, they were flown

1 right before the last hearing.

2 (Exhibit A-17, photographs, marked for
3 identification.)

4 BY MR. PURCELL:

5 Q. Okay, Mr. McDonough, you can continue?

6 A. Sure. And so these photographs are
7 somewhat repetitive. They, again, are drone shots
8 of the subject property. I think the first three
9 frames are actually looking to the east from a
10 higher perspective and then sort of flowing down
11 into the landscape. And I stuck a little yellow
12 line in there, a little yellow arrow, just to show
13 where the sign is that we're talking about.

14 Some of the key things here, of course,
15 is -- again, kudos to good planning. That sign was
16 located there, nestled very nicely into a wooded
17 area. So there is a frame that's built into this.
18 That certainly negates any impact visually on the
19 surrounding properties. Again, this is an area that
20 I would qualify as having very good visual
21 saturation. There's a lot going on here with
22 respect to the sign to protect it and to soften that
23 visual impact as opposed to what would be a visual
24 desert.

25 The Board may recall, I did the Honda

1 across the way, the auto dealership. And you can
2 see the openness of that space. If this billboard
3 were on the opposite side where we have no trees
4 framing it, it would have a totally different impact
5 than what we're looking at here. Not only is this a
6 sign that is framed by the vegetation around it, but
7 it is sunk into the horizon as well. So it's what I
8 would characterize as a low-profile sign, which
9 also, I think, mitigates the visual impact of the
10 sign itself.

11 Other key things about this series of
12 photographs here is that we do have some other signs
13 in the area, those green highway signs that you see
14 floating off to the left and on 22 as well as we're
15 working our way to the east on 287.

16 Other key aspects here, we do have a
17 very wide highway here. The prevalent or
18 predominant land use in the area is the highway
19 itself, it's transportation. Land use patterns
20 follow transportation patterns. The highway is
21 there, and this land use naturally follows that.

22 The other key aspect, of course, is
23 that the sign is there and has been there for some
24 length of 60 years. Every variance application
25 needs to relate to a distinct piece of property. We

1 are-categorizing this as a D1 use variance, but I
2 don't think we can turn a blind eye on the fact that
3 this land use has been here in a different method of
4 display towards 60 years now.

5 MR. SWEENEY: I'm curious. How did
6 this sign come into being? It's a prohibited use.
7 This Board certainly didn't grant the variance. How
8 did it get there?

9 THE WITNESS: We know don't that. I
10 don't know that we have a record as to that, so
11 we're categorizing it as a D1, new use variance.

12 MR. SWEENEY: Were you involved in any
13 previous applications for a variance for this
14 billboard?

15 THE WITNESS: Never.

16 MR. SWEENEY: Were you aware of
17 anybody that was involved, any other planners that
18 might have been involved in a previous application
19 for a variance for the existing billboard?

20 THE WITNESS: I have not.

21 MR. SWEENEY: Going back to your first
22 photo, how many other advertising signs, as defined
23 in the ordinance, are visible?

24 THE WITNESS: I don't see any.

25 MR. SWEENEY: Thank you.

THE WITNESS: So the other key aspect here is the character of the area. This is a predominately non-residential area. You can see that there are office buildings and commercial buildings around, no residential structure within at least 700 feet. The Board may recall on that open land area, which is on the right-hand portion of the site, that cleared area was targeted for a hotel. We were here for a use variance for that several years ago. And as I recall, there was some homes that were in the general vicinity of that development that, again, the nearest one is over 700 feet away.

CHAIRMAN FOOSE: Mr. Taylor, I'm sorry. We have to keep that open by law. Thank you.

THE WITNESS: Our State outdoor advertising regulations where they talk about prevalent land use stop at the 660-foot mark from the highway. Again, these homes are 700 feet away. So, again, they're outside of where that prevalent land use would be considered under our State regulations.

The other aspect here again -- this is all going to go toward site suitability -- is that

this is what is called, and I put it in quotes, "a permitted location" under the DOT regulations. The DOT regulations are chock full of safety concerns. They're all there in the front page and the preamble. These permits are not given out willy-nilly. We know that the state DOT are the stewards of highway safety. And importantly, an outdoor advertising permit for a digital display has been issued by the DOT.

Board Member Sweeney had a good question about other signs in the area, advertising signs. And one of the requirements of getting an outdoor advertising permit is to have separation from others so that there is not an abundance of outdoor advertising signs. So I think that was a good question and good point that we are in an area that does maintain that adequate separation from other signs and meets the spacing controls.

Again, so just to flip through the first frame on -- was this A-17 again?

MR. PURCELL: Yes.

THE WITNESS: Is just if you're looking to the east flowing at an elevation, a higher elevation.

Number two, it's just starting to drop

down to give you some more detail.

Number three is even more detailed, emphasizing, as you've heard through the testimony on the record, that that sign that is there now is going to be reduced in sign area from 231 square feet, whereas 247.25 is what's there now. And the setback is actually going to be increased. We are at 6.9 now. We're going to move that back to 10 feet. That will bring the sign more in conformance with the zone requirement of 30 feet. We're not there, but I think it's self-evident that if we were to move this sign back another 20 feet or so, we would be taking down trees. I think the Applicant struck a good balance here from a physical planning standpoint slightly moving it back but not too far back where it impacts the site environmentally.

The fourth frame, we just spun the drone to the south just to give a sense of the context and the fact that we are on the on this office complexion development and how the sign location does not interfere with the use, the flow, the function of those office buildings and, again, is nicely screened from the workers that would be in that facility. No interference with the center point sign that's there now, as well. It's good

separation. And this sign certainly is not going to obscure that visibility or that way-finding sign that identifies that development.

The fifth frame, the drone is now spun to the opposite side of the highway, looking to the north, north of 22. That's the Autosport Honda that I testified to. Again, giving the sense the fact that this is a commercialized area separated by a nicely buffered boulevard in the middle of a very wide roadway and no residential within immediate eyeshot within a reasonable distance of this sign.

Frame number six, we just hung the drone overhead, shot it down to show how the sign does nestle into the landscape and integrate with the landscape and creates no interference functionally with the surroundings.

And then finally the last shot, we always seem to take daytime shots of these billboards. So before, I think, it was the first hearing on October 5th, I just went out there to show the Board what's part of your landscape at night as well. I know there were concerns about what's called the TV effect. This is a big part of the landscape, what you see here, for many years. You will hear, as I go through my testimony, that

1 this is not going to be an animated sign. They are
2 not going to move. They're not fade or blink or the
3 logo is not going to spin around. It's going to be
4 a static image just like you see here.

5 And I think this has been a very
6 positive interactive process. I heard Ms. Doyle's
7 concerns about the three flips, and it has now
8 evolved with a time spacing for the two flips. In
9 the interest of public safety, I think it's
10 self-evident that somebody is one way or the other
11 going to see two flips. So I think that the Board
12 and the application has landed at a very good place
13 where most people will see just the one display like
14 you see here in this last frame. So we put that in
15 there as well just to give a sense of what the
16 impact would be at nighttime.

17 With that predicate and with the
18 predicate of the witnesses before me and the
19 testimony that's on the record, I'll just take the
20 Board back to the zoning here, the relief that the
21 Applicant is asking the Board to move on, and
22 planning rationale or the proofs that would go under
23 each one of those reliefs that the Applicant is
24 seeking.

25 So we're in the M1B limited

1 manufacturing zone, which is a zone that's aimed at
2 the commerce, it's aimed at economic development,
3 which is exactly what this land use is. The outdoor
4 advertising regulations right at the preamble in the
5 very first sentence talks about balancing aesthetics
6 and balancing the need to stimulate economic
7 development, which is what this land use does, and
8 finding appropriate locations.

9 The permitted uses include offices,
10 include manufacturing, include warehouses, include
11 medical, and, actually, gas stations here as a
12 permitted conditional use. I have not run through
13 the conditional use standards to see if this site
14 would or wouldn't comply, but these are the types of
15 things that could interact or interface with what
16 the Applicant is proposing here.

17 I'll take you through the relief one by
18 one. I listed them last time. We'll give you just
19 a reminder.

20 They're all through section 126-195.
21 The planner, Ms. Doyle, has given you all of the
22 standards for signage under 126-195. But the
23 Applicant is asking the Board to move first on
24 subsection F1 which pertains to sign type, and
25 that's an off-premises sign, a sign that presents

1 information related to a business that is not on the
2 subject site. And that's not permitted anywhere
3 here in Bridgewater. So no matter where this land
4 use goes, it would be in front of you with the exact
5 same relief that this Applicant is seeking.

6 So I've run this through the four parts
7 of the Medici test. I'm sure the Board has heard
8 the elements of proof on this many times. I break
9 it down into the four elements, and I found that all
10 the four elements of proof through Medici are met
11 here. We'll take you through one by one.

12 The first element I call site
13 suitability, particular suitability. It relates to
14 the land. All land use planning starts with the
15 land and the physical characteristics of the land.
16 This site is particularly suited for the use because
17 it has accommodated the billboard for 60 years.
18 We're located on a major highway where the State
19 policy encourages this land use to locate. It is an
20 80-foot-wide right-of-way there. And you can see
21 how the sign does blend into the context, blend into
22 the landscape, and is ideally suited to accommodate
23 all of this conversion or this digital display.

24 It's a non-residential area. It's a
25 low-profile sign. We've got that nice landscape

1 frame around it. And as I said, NJDOT has
2 determined this is a permitted location under its
3 rules and has issued a permit. And, again, just
4 reminding the Board that those rules are chock full
5 of safety and site conditions. I'll also put there
6 under that the visual saturation that I spoke about
7 with the photographs.

8 Part number two or element number two
9 takes us away from the land, and that moves us to
10 the land use law and the reason why we have the
11 power to zone in the first place and regulate land
12 uses. This use will promote the public welfare.
13 That's always a fundamental core goal of planning
14 and zoning is to promote public welfare with free
15 speech, with economic development, this has been
16 vetted by courts on multiple levels. I'm not the
17 lawyer, but I do certainly give that some deference.
18 It's really a specialized form of land use that we
19 planners are supposed to pay attention to, some of
20 those free speech aspects that go with the land use.

21 The use supports commercial
22 establishments. It supports businesses that we work
23 with, that we work for, that we put our nest eggs
24 into. These are companies that, again, we work with
25 and put our investments in.

The use also benefits noncommercial establishments such as institutions, religious, educational, medical. We see hospitals advertised up there, schools, Rutgers, those types of things also advertise or put their message on billboards. And these are inherently beneficial uses. I am not implying that this is an inherently beneficial use, but it is certainly an instrument of those inherently beneficial uses and they do rely on this to get their messaging out. We think it's common that we see those names on this type of message board.

The use also, as you've heard for from most law enforcement and essential services, the FBI the, state police, I think there was good interaction about those public service announcements as well. And that's, I'll say, a realtime benefit that comes as a result of the digital display that you have this instant interruption when there is an emergency alert, traffic alerts, and other things as well, the amber alerts, the fugitive alerts, all of those alerts can be hooked into instant messaging.

So this ties back into the land use law purpose A, promotion of the general welfare. I think the Board could also move favorably on purpose

G, to provide for a variety of uses in appropriate locations; purpose I, the promotion of a desirable visual environment. Again, at another location, it could be a greater visual impact. Given the context and consideration of this location, we think this does promote positive aesthetics.

I heard some commentary earlier this evening about perhaps some vegetation or shrubbery at the base of the sign. That could go towards improved aesthetic environment as well.

And then finally, planning goal purpose M, which is efficient use of land. Taking a location that, whether it had been lawfully created or not, certainly has been out there in the public eye for 60 years. This is not one of those land uses that's hidden in the back of an industrial site. It's something that the public has grown familiar with and it has a familiar presence on Route 22. So I think the Board can give some deference to that as well.

The third part of the test takes us away from the land, takes us away from the land use law, and now starts to focus on the neighborhood impact and how well this land use integrates with the surrounding neighborhood.

As you've heard from the testimony on direct, this use here is not going to interfere with any of the uses that are on the site or around the site. It is certainly not incompatible with the surrounding land uses which are highway commercial in nature. There's no evidence on the record -- I think there's been that good vetting that anything inherently unsafe will be created by this application. And importantly, it is a modernization of what's there and what has been there, so I do think the that the planning intent to avoid over-branding, sign clutter, and the like, is also vet here in terms of the neighborhood impact.

So based on all the testimony on the record and the evidence that I just gave from a physical planning standpoint, I believe that part of the test with the impact on the public can be granted without substantial detriment or any substantially adverse impacts.

At the heart of this application is safety. I think the interaction with the Chair, with the Board, and the Applicant has landed in good a spot to protect the public interest and the public safety.

And then finally, the last part of the

test looks at everything that I just said and still have this issue zone plan doesn't want this land use here and how do we reconcile that. And that goes towards the community vision. Why do we have this prohibition in effect? Why do we have these controls in the effect? So I went back and looked at your Master Plan of 2018, 2016 -- these are reexaminations -- the 2015 amendment to the Master Plan. I know in between there was some other reexaminations, but they were really targeted at affordable housing when all the court cases were coming down. So I'm looking in particular at the Master Plan and the re-exams that went around that.

Certainly, the pillars of your community here are aesthetics, protecting residential neighborhoods, balancing, and providing appropriate balance of nonresidential and commercial uses, economic development. And for all of the reasons that I stated, I think that balance has struck here. At this particular site, there will not be any substantial impairment to the intent and purpose of the zone plan and ordinance.

I know from experience that this Board and your policies here are very protective against electronic messaging signs, EMCs, on the premises.

1 Those are different than what the applicant is
2 proposing here. Those are generally moving signs,
3 signs that splash or explode. That can be
4 distracting. Here, we have a still image that
5 changes on an instantaneous basis with absolutely no
6 movement, I'll say. We'll get into the apparent
7 movement conversation in a second, but no animation
8 per se.

9 So with that, I would offer that
10 relief, again, does relate to a distinct site which
11 is atypical of the zone. Not turning a blind eye,
12 it's been there for a long time. It will not
13 undermine your zone or the integrity of the zone and
14 is certainly is not tantamount to a rezone if the
15 Board moves favorably.

16 That takes care of the first merit. I
17 think the others will go a little more quickly now.
18 That was F1, the sign type for an off-premises sign.

19 We'll move to F4 under Section 126-195,
20 which is the method of display and the fact that --
21 we talked about this last time with Ms. Doyle and
22 the fact that we have changeable copy here and the
23 fact that we have what is apparently moving in terms
24 of the signage that the applicant is proposing. The
25 clear intent here and the stipulation and the

1 concession that was put on the record takes us right
2 back to the outdoor advertising regulations that
3 there will be no movement associated with this
4 particular sign and the displays. The sign itself
5 is not going to move. The analogy that I always
6 like to use is the inflatable tube guy that we all
7 see with the waving arms. This sign is not going to
8 move. This sign itself is going stay still. The
9 image will also stay still. As I understand your
10 ordinance and the discussion we had last time was
11 this progression of signs or I'll say the running
12 horse, the frames that we saw in the early days of
13 motion pictures and celluloid where you go would
14 from one frame to the next frame to the next frame
15 to evoke movement. That is another stipulation and
16 concession that this Applicant would agree to, that
17 we're not going to have this progression of signs as
18 well.

19 The images themselves, the texts are
20 not going to move. As I said before, logos are not
21 going to spin around as one drives by, and the
22 images and people, places, and things on these signs
23 will not move as well. Changing from one image to
24 the next is not going to be a swipe to the right or
25 a swipe to the left. It's not going to fade or any

1 of that. It's going to just instantaneous change.
2 So I think that also gives some credence here moving
3 favorably on the relief that this will not cause a
4 substantially adverse impact as a changeable copy,
5 apparently moving sign. And I would reconcile that
6 under relief C2 balancing test where it's not the
7 use per se, but the method of display. The benefits
8 of the application as a whole would substantially
9 outweigh the detriments. I'll take all of those use
10 proofs that I just gave and pull them down into this
11 relief for that apparently moving sign. It's
12 inherent to the use itself that that's there, but
13 with the stipulations we believe that the benefits
14 would substantially outweigh the detriments.

15 Number three relief relates to the
16 first relief. This is also under sign type. And
17 it's subsection F9. Here, we talk particularly
18 about advertising signs as opposed to off-premises
19 or informational signs. This is particularly
20 advertising signs are not permitted anywhere here in
21 Bridgewater. For all the reasons that I gave with
22 respect to the rationale for off-premises signs,
23 I'll carry them over as well to F9. An advertising
24 sign will not cause any impacts of a substantially
25 adverse nature and meets the Medici test.

1 Finally, the last item of relief that
2 the Applicant needs is from F11, which relates to
3 the sign setback. That's where we started with
4 these photographs that the Applicant is asking the
5 Board to move a 10-foot setback as opposed to a
6 30-foot setback. Also reconcilable under that C2
7 balancing test, we think this is a better zoning
8 alternative for the site than moving that sign back
9 where it would be impacting of trees and certainly
10 less effectuating its purpose.

11 So with all of that, again, I remind
12 the Board that we're on a highway here, as we heard
13 at the beginning, a hundred thousand vehicles per
14 day pass by. It's a use that's targeted at those
15 drivers in a safe and efficient manner. With all of
16 the movement on this application, I think we've
17 landed in a spot where the safety aspect has been
18 well vetted. In my opinion, the statutory criteria
19 for all of the relief are met here and the approval
20 is warranted. And I'll yield to the Chair or
21 redirect at this point.

22 MR. PURCELL: That's all I have on the
23 application.

24 MR. SWEENEY: Mr. Chairman, a
25 question.

CHAIRMAN FOOSE: Please.

MR. SWEENEY: Mr. McDonough, I was specifically listening for anything you had to say about the negative criteria, very specifically the second prong of the negative criteria. It basically says that we can't grant this use variance if there's substantial impairment of the intent and purpose of the zone ordinance in the zoning plan.

The ordinance says you can't have these signs, you can't have them here, you can't have them anywhere in Bridgewater. I think there's a reason for that. And I think the reason is visual clutter. That's why there aren't any other advertising signs in that picture. They're not allowed. It was decided a long time ago that these signs are visual clutter. We didn't want that in Bridgewater, so we don't allow them in Bridgewater.

Since they're not allowed, how then can you say that our granting this variance is not a significant impairment to the zoning plan and ordinance? I don't get it. It seems to me as though what you're asking for is not just an impairment of the zoning plan and ordinance, it actually represents the exact opposite of what the ordinance wants, which is no advertising signs, not

here, not anywhere in Bridgewater. I don't get it.

THE WITNESS: Well, Mr. Sweeney, as a planner, we operate within a legal framework. I understand what you're saying in terms of policy; the policy is clear. But I write these codes. I have to look at where billboards should go, as recognized in the State policy that they belong somewhere. We have two cases. Again, I'm not the lawyer. You will probably hear this more on closing arguments, but I have to give deference to the fact that we do have the Bell versus Stafford case, which essentially said just that, that it is improper to completely zone out billboards from a town, that they do have purpose, they do serve a public purpose, and they do belong somewhere. That's billboards in general.

And then I can tell you that I personally was involved with a case about three or four years ago that involved this exact same thing. It was over in Union Township. It was for a D1 variance to convert an existing billboard, a static billboard, that had been there for a long time. The Board denied the application seven to nothing. If you drive by there today, it's a digital display only because it went through the courts. And I'm

just saying this factually. You asked the question how can I reconcile that. That's what the Courts said. The Courts said a zone that doesn't recognize digital display as being something that's appropriate falls on the heels of that NJ equity case which says you can't distinguish between static billboards and digital display. They're essentially the same animal, from a zoning standpoint. I lived the Union Township case. And the fact pattern is very similar. That's all I can say.

MR. SWEENEY: Take a look at this picture again, the very first one. This is Bridgewater. If we were to allow the kind of advertising signs that they're applying for, this won't look like this anymore. This will look like what you see if you get on Route 22 and you drive east and you go beyond the Bridgewater borderline. I'm not going to mention the towns, but we all know what I'm talking about. That's why the ordinance prohibits advertising signs in Bridgewater.

THE WITNESS: Again, I don't want to engage in legal arguments here.

MR. SWEENEY: Well, just explain it to me, then. Don't argue; explain.

THE WITNESS: I understand the policy

is a flat-out prohibition. The Courts are clear. The land use belongs somewhere for all the reasons that I just stated, not the least of which is that the land use has been here for quite a long time. We're not making it higher. We're not making it bigger. We're actually reducing the area. We're making it further set back from the road. I think there has been a good-faith movement by the Applicant to better integrate this land use into the landscape. And it's an evolution of the land use. It's about the fourth or fifth different type of method of display for this type of land use. I think you heard Mr. Antal explain. At the very outset, this was paint on a rock when the land use started.

BY MR. PURCELL:

Q. Mr. McDonough, just following up on Board Member Sweeney's question there. There is a static billboard sign now, and the DOT has certain limits with respect to spacing for static billboards. Is the fact that this is being turned into a digital billboard, is there an increased spacing requirement? In other words, by turning this into a digital billboard, does that actually prohibit the possibility that there could ever be

1 other digital billboards in closer proximity than
2 this static billboard?

3 A. On the State level, yes. If this
4 gives some comfort or some answer, with a digital
5 display here, the separation requirement is up to
6 3,000 linear feet before one could get an outdoor
7 advertising permit. That doesn't foreclose the
8 Board from getting to hear the application. But on
9 the State level, with digital display, that's now,
10 I'll say, a knockout of 3,000 feet in either
11 direction. If it wasn't a digital display, it would
12 be much less.

13 Q. By not being digital now, the State
14 could issue a permit closer, right, 300 feet, or
15 what was the distance?

16 A. Yes, 300 feet.

17 Q. And by making it digital, it increases
18 the distance?

19 A. Tenfold.

20 Q. Okay. Excellent.

21 MS. AMIN: I have a question. On your
22 sheet number 7, you have two pictures. One's a
23 certain point with lights, and the other one is the
24 proposed sign that you're going to be putting in.
25 Are you saying that the proposed sign is in

1 proportion to the center point of the wording that
2 you have there? Is that how it will look?

3 THE WITNESS: Is the question are the
4 signs proportional, are they similar?

5 I would say they're similar. I don't
6 know the exact dimension of the center point sign,
7 but they are similar. From this advantage point,
8 obviously, the center point sign looks much larger
9 because it's closer to me when I'm taking the
10 picture. But in actuality -- that may come out in
11 one of the photographs -- they're very similar in
12 size.

13 MS. AMIN: I'm trying to read what is
14 on the proposed sign. It's much smaller than the
15 center point letters that we see there.

16 THE WITNESS: Well, I'm not going to
17 say that the lettering on the proposed sign is going
18 to be smaller than the center point because, again,
19 it all comes down to the advertiser. They're all
20 different.

21 MS. AMIN: The other question I have
22 for you, the present sign that you have, is that an
23 advertising sign or is it -- what do you have on the
24 present sign?

25 THE WITNESS: The present sign that's

1 there now is both an advertising sign and an
2 off-premises sign. You can see it's advertising a
3 dentist.

4 MS. AMIN: Is it part one of the
5 tenants in this complex or is it some --

6 THE WITNESS: I'm sorry, I didn't
7 understand the question.

8 MS. AMIN: The advertising which is
9 someone in that complex?

10 CHAIRMAN FOOSE: It is a real estate
11 advertisement.

12 THE WITNESS: Oh, I don't know where I
13 got dentist from.

14 BY MR. PURCELL:

15 Q. She's asking -- I don't know if you
16 know this, but that is someone in that complex?

17 A. That, I don't know.

18 MS. AMIN: Okay. Thanks.

19 CHAIRMAN FOOSE: Any other board
20 members, questions for Mr. McDonough?

21 Board professionals?

22 Ms. Doyle, please.

23 MS. DOYLE: You talked about
24 aesthetics, and, of course, that's part of it as
25 well. And you also talked about the fact that that

1 sign, according to not our ordinance but federal,
2 should be able to have digital signs. And I don't
3 know -- although some people may think that you have
4 a sign today, it's there, it's not being removed.
5 And right now, it is, I'll say, a vinyl sign --
6 we'll just say it's vinyl for the purpose of
7 discussion -- and you want to change it to digital.
8 Back in 1976, which is -- this is something that you
9 would have looked at as a planner, how long has this
10 been around? The first ordinance in Bridgewater
11 Township was 1976, Section 8:5-4 and Section 8:5-9
12 both say the following: It specifically says,
13 "Moving or apparently moving signs are not
14 permitted." It's the same language we have today.
15 That's 45 years ago, and we didn't have digital
16 technology then. So they were talking about a -- I
17 don't know, it might have been paper, I don't know.
18 We'll say vinyl at that point.

19 It also says specifically, quote,
20 Advertising signs are specifically noted as not --
21 "Advertising signs are not permitted in any zone in
22 Bridgewater."

23 That is a specific statement 45 years
24 ago. We have been saying it over and over and over
25 again.

Now, you'll recall that on November 29th of this year, we had a traffic study and we have been continually talking about how many flips you can get. And as of tonight, with a 13-second image, we will get two flips. That was discussed. Okay. With that, we also mentioned that there was a thousand feet -- do you agree with that? You agree that there are two flips -- I mean, there are two messages?

THE WITNESS: I agree with -- I accept or absorb the testimony of Mr. Taylor that --

MR. PURCELL: I make a proffer. Mr. Taylor did say that currently 13 seconds is one flip.

MS. DOYLE: Well, if I am approaching this, if I am approaching the sign and I see I will focus on it .37 seconds, I will see a different message coming, and then I got 13 seconds and that 13 seconds is static. Your expert testimony said two messages.

MR. PURCELL: Right. One flip, two messages.

MS. DOYLE: Okay. Thank you.

Would you agree today, as one drives down the road today with this vinyl sign which is

there, and it is going to be staying there, that you see only one message?

THE WITNESS: Yes.

MS. DOYLE: And would you agree that that message is on for more than a day?

THE WITNESS: Yes.

MS. DOYLE: And if it were the digital sign that wasn't changed but once a day, that also would be a static message similar to the vinyl billboard we have today, would you agree with that?

THE WITNESS: Is the question would we just change the method of display, but it is not multi-message, would it be --

MS. DOYLE: You could change it once a day. If you changed it once a day, would it be quite similar to the existing sign that you have and you have every right to have?

THE WITNESS: I'm not sure I understand the question. The method of display will be exactly the same.

MS. DOYLE: Okay. Let me ask you again. Today, the sign is vinyl and it has one message. Tomorrow, the sign could be digital with one message. Would you say that that's comparable except for the technology?

THE WITNESS: In terms of the -- it's pure math. The answer is yes.

MS. DOYLE: So recognizing two things, that advertising signs have been prohibited in Bridgewater from the first zoning ordinance 45 years ago, why should the Board be persuaded to intensify the existing use by increasing the messaging from the current one message and to increase it as much as two apparently moving messages? By that, I mean the flip. Why should the Board be persuaded to give any more relief to a prohibited sign than what's already there? Could you answer that question?

THE WITNESS: Number one, because it's there and this is an evolution of that use. And number two, because there is uncontroverted expert opinion on the record that this change in copy will not create a substantially adverse impact.

MS. DOYLE: We talked about aesthetics here. The idea of clutter is what was mentioned by one the Board members. And relate that to the purpose. Forty-five years ago we were prohibiting it, they didn't want it. This one clearly got approved or is there, either by action of the Board or by predating 1976. And you said it was probably '68, so that could have been the reason it's there.

But nevertheless, you've got multiple information as to clutter, as to aesthetics. And they, in 1976, didn't want it. Again, why should the Board intensify the rights that you already have to something that would allow apparently moving messages and increasing the messaging to two and having apparently moving messages?

THE WITNESS: That was a long question. The short answer is because the visual impact will not change.

MS. DOYLE: Okay. Thank you, sir.

CHAIRMAN FOOSE: Mr. Burr.

MR. BURR: One question for Mr. McDonough. When I look at your photo exhibit, the last photo, I think the one that I think Ms. Amin asked the question about, which is the nighttime picture. It's something that I've been thinking since the last meeting, and that is the impact this sign will have at nighttime in terms of safety on the motoring traffic. And I'm looking at the existing sign being lit up. I'm just curious, did you take a photograph from the distance that we've been talking about, that effective visibility distance, a thousand feet or 845 feet? Do you have any nighttime photos of the existing sign to

1 establish a baseline? Or is this the only night
2 photo you have?

3 THE WITNESS: This is the only one I
4 have.

5 MR. BURR: Okay. Thank you. That's
6 all I have.

7 MS. WOLFE: Mr. McDonough, do you
8 think that the stipulations that the Board is
9 requesting the Applicant are reasonable?

10 THE WITNESS: Yes.

11 MS. WOLFE: Thank you.

12 CHAIRMAN FOOSE: Public questions for
13 Mr. McDonough on his testimony.

14 Seeing none, back to you, Mr. Purcell.

15 MR. PURCELL: We've concluded our
16 witnesses. I can do my closing.

17 CHAIRMAN FOOSE: Sure.

18 MR. PURCELL: It's been a fruitful
19 discussion I think that our client has with Board
20 these last number of meetings, certainly this Board
21 is interactive, certainly, very concerned with the
22 risks of the Township of Bridgewater, and that
23 certainly is very commendable. I'm not going to go
24 over point for point every piece of evidence that
25 was submitted, every piece of testimony, but I think

1 it's useful to just touch on a few major points.

2 The first is that this site is suitable
3 for this modernization. This, as has been
4 discussed, this sign has been there for something
5 like 60 years. The physical location itself, it
6 naturally buffers the site. And also that there's a
7 natural evolution of this use, that years ago there
8 was barns being painted and then there were vinyl
9 billboards, and now we've evolved digital
10 billboards. Certainly, that's raised some
11 interesting constitutional issues which I'll touch
12 on in a few moments.

13 With respect to the special reasons,
14 obviously, it's been provided by way of testimony
15 and I think quite nicely that there's a lot of good
16 uses, a lot of good things that come from having a
17 digital billboard. Local businesses can regularly
18 advertise on that billboard, nonprofits in your
19 community that use it, the municipality itself can
20 use it for all sorts of things. So there's
21 certainly a positive aspect to this proposal.

22 Again, getting to the public impact of
23 it, we talked about that a lot, certainly. We
24 talked about that a lot with respect to traffic
25 engineering. And, again, I said before and I think

1 was said by witnesses and I'll say it again,
2 Outfront currently holds a State license for the
3 site. And State, as John said, is sort of the
4 watchman of traffic safety. This is what they do,
5 and they issued Outfront a license for this location
6 for a multi-message sign. I think that also is
7 important for the Board to understand.

8 Obviously, there's a zoning impact here
9 with respect to safety, and that's an important
10 factor. And I think what's coupled with that is the
11 fact that the testimony that Mr. Taylor provided
12 that essential, by way of federal studies, by way of
13 his analysis, that a digital billboard is
14 essentially, from a safety perspective, the same as
15 a static billboard. There really are no safety
16 impacts with respect to this billboard, the proposed
17 modernization. Having said that, Outfront certainly
18 is willing even to go beyond that State standard of
19 8 seconds, beyond by 50 percent -- actually, more
20 than 50 percent, right? Thirteen seconds, correct?
21 I'll let the engineer do the math on that one. But
22 we are clearly going above and beyond what the State
23 requires here. That's what it comes down to. And
24 that's an important component of this, too. It's a
25 nonresidential area. The visual impact will not

1 change.

2 And then with respect to the zoning
3 impacts, I think there's certainly constitutional
4 implications here that have to be taken into effect.
5 I know previously I mentioned that a municipality
6 that wishes to prohibit digital billboards has to
7 have more as a basis to do so than just this waiver
8 around this notion of traffic safety. It has to be
9 a substantive analysis to support that. Here, I
10 think it's the opposite. All the facts say that it
11 is safe.

12 The same thing with Bell v Stafford,
13 which was referenced by Mr. McDonough. That's
14 another case where there is a constitutional
15 implication for speech, there's a constitutional
16 implication to commercial speech, there's a
17 constitutional implication to non-commercial speech
18 which is, again, nonprofits, entities that are
19 trying to communicate their particular political
20 messages, which will exist on this sign.
21 Municipalities can't prohibit that under the
22 Constitution. They have to have some ability to
23 permit that type of speech to be spoken or to be
24 transmitted in some way, thereby, via billboard.

25 So in sum, I would just say that I

believe that Outfront has made its case. I think it's made its case well. I think with all the facts in evidence in support its case, I think it's gone beyond that, certainly with respect to the flips. I think that's something that for the comfort of the Board, we're happy to do. I think there's been useful discussion back and forth. But, again, I think that this is an appropriate modernization at an appropriate site. We meet the standards, and I ask the Board to look favorably on this application.

CHAIRMAN FOOSE: Thank you, Mr. Purcell. The question related to Mr. Burr, what he just asked, Mr. Duarte's testimony has the output on 12 by 12 squares of accumulative .3 footcandles, is that correct?

MR. PURCELL: Say one more time.

CHAIRMAN FOOSE: The output of the signs, Mr. Duarte testified to .3 footcandles, and that equated 158 max over ambient.

MR. PURCELL: I believe within that terrain.

CHAIRMAN FOOSE: In terms of ongoing maintenance, if it was found that the output was exceeding that, Outfront would be responsible to make the adjustments to have it back into the .3

footcandle specification?

MR. PURCELL: Well, I believe that's the industry standard. I believe it's mechanically set up to be at that footcandle level.

CHAIRMAN FOOSE: What if it was greater than that we found out independently?

MR. PURCELL: Can you just hold on one second?

CHAIRMAN FOOSE: Sure.

MR. PURCELL: So as a condition of this, if the Board would vote favorably on it, we would stipulate that if it was above that limit and exceeded what was set forth, then Outfront would fix it.

CHAIRMAN FOOSE: So would Outfront be doing periodic maintenance to make sure that the output didn't exceed the .3 footcandles at 158 max ambient as was in the parameter.

MR. PURCELL: Again, I'm just calling on the testimony given previously, I believe it monitors itself by way of the operation inside of the sign.

CHAIRMAN FOOSE: So someone is taking specifications and making sure it meets criteria that are specific to that output, correct?

MR. PURCELL: Correct.

MS. WOLFE: And if the Board were to want those statistics, could the Board obtain them?

MR. PURCELL: Obtain the --

MS. WOLFE: The statistics. I'm assuming that there must be some kind of printout or digital inventory that would say what the output of the footcandles were.

MR. PURCELL: At the Board's request?

MS. WOLFE: Yes.

CHAIRMAN FOOSE: Well, I think that could come into necessity if there's an accident if someone wanted to have that output. Is that available?

MR. PURCELL: Give me one second.

CHAIRMAN FOOSE: Sure.

MR. PURCELL: I just confirmed with my client. My understanding is that mechanically I think they monitor this completely. I don't know if a printout is possible, but I do think if there was a request that was this operating within its parameters a certain day at a certain time, that could be requested and that could be provided.

CHAIRMAN FOOSE: Thank you.

At this time, members of the public

that would like to speak for or against this case, now is the time to come up front to make a statement.

Seeing none.

All right, what's our course of action here, stipulations, deliberations?

MS. WOLFE: The first stipulation is, obviously, the 13-second flip. A planter or bushes being placed below it so it's less easy to vandalize. We have that stipulation we just made about Outfront providing information if there's a request if there's a traffic incident about footcandle levels. Of course, no moving, no animation, no progressive images. The Board had initially said no political signs, no tobacco, no alcohol, no schools or churches, no marijuana signs, we're okay with gambling signs.

MR. PURCELL: I think we laid out the limitations on -- internally, there's some limits that they possess.

CHAIRMAN FOOSE: I have those noted as no, but I'm not sure if that was just the company's prerogative.

MR. PURCELL: Yeah, I thought that was all it came down to.

MS. WOLFE: Okay.

It was stipulated that it will not be like a TV, no flashing, no moving. The Applicant has said they can raise the height of the sign if we were concerned about vandalism, but I don't think the Board is requesting that. Is that correct?

CHAIRMAN FOOSE: No.

MS. WOLFE: And the .3 footcandle max.

And then if you'd like us to include in the resolution the Applicant to return to the Board, I think it was two years.

MR. WEIDELI: I would do two or three years.

CHAIRMAN FOOSE: Sounds like Outfront doesn't want it.

MR. PURCELL: I would say that we can always come back.

MR. WEIDELI: I have no problem with two or three years readdressing it.

MR. PURCELL: And I appreciate that.

CHAIRMAN FOOSE: Mr. Purcell, just in terms of eligibility, I have myself, Mr. Weideli, Ms. Amin, Mr. Sweeney, Ms. Guttschall, Mr. Fresco, Mr. Bongiorno, seven eligible members, is that correct?

MR. PURCELL: That's my understanding.

MS. WOLFE: And, of course, any of the conditions by our professionals.

MR. PURCELL: Just as housekeeping, 0.3 footcandles is 0.3 footcandles above ambient light. That's the way you measure it.

MR. WEIDELI: Did we bring up political advertising, because I pass a lot of them where they allow political advertising.

MR. PURCELL: We discussed it.

MR. WEIDELI: I don't remember.

MR. PURCELL: Political advertising, operationally exists on the sign.

MR. WEIDELI: So that is allowed, okay.

CHAIRMAN FOOSE: Open it up to deliberations. We're going to start off with Mr. Weideli, please.

MR. WEIDELI: Okay. I have a couple of comments. First of all, I've been on this Board probably seven or eight years. I lost track after a while. I remember starting out back then and we heard a lot of the same types of cases. Now as we get into changing times, we hear a lot of new concepts, all new to the Board also. So I try to be

open-minded, which I am, about trying to make the right decision for everybody, especially Bridgewater Township residents. We've had to deal with the charging stations with the electric cars coming in. That's going to be another one. This one, without a doubt, will not be the first sign going up like this.

My biggest concern -- I live over there in the area where I drive past it at least 30 times a week. You use a thousand foot. I use more of a 13, 1400-foot. My biggest concern was I don't want to drive down and see it flip two, three, four times, especially if you're 35 miles an hour which often happens. Mr. Fresco came up with a number of 12.2, I believe, at our last meeting. So I was not going to compromise for less than 13 seconds. So it basically comes down to you met what I feel is the minimum requirement of 13, so basically the person is going to see one, maybe a flip to see a little bit more. Safety is my biggest issue. I think from going from 8 to 13 seconds, without a doubt, helps that situation.

So the second biggest question on my mind is we don't allow these types of boards up there they're, they're not allowed in Bridgewater.

But times are changing, and at this point, you met what I was looking for. You're not increasing the size, so at this point, I'm in favor to vote yes for the application under the conditions.

CHAIRMAN FOOSE: Ms. Amin, please.

MS. AMIN: Based upon the testimony that we have heard, it looks like the 13 seconds is going to be mostly like a stationary advertising sign. At present, there is a sign that is advertising. So whether it's a billboard or something else, it doesn't make too much of a difference. Like Mr. Weideli said, the world is changing. Stationary signs are no longer is going to be. Bridgewater will have the first one like that. Anyway, I'm in favor of approving it.

CHAIRMAN FOOSE: Thank you.

Mr. Sweeney.

MR. SWEENEY: Thank you, Mr. Chairman.

I confess I'm hung up on the ordinance, and I'm also hung up on the criteria that the Applicant is required to meet before we can grant this use variance. Very specifically, the negative criteria, the second prong of the negative criteria, says that the applicant has to demonstrate that this use variance can be granted without substantially

1 impairing the intent and purpose of the zoning
2 ordinance and the zoning plan.

3 Well, we've had an ordinance in place
4 for 45 years that prohibits these advertising signs.
5 And you know what? It's not just prohibited in this
6 particular zone, they're prohibited everywhere in
7 Bridgewater. I think that speaks volumes about why
8 they are a prohibited use. It's visual clutter. We
9 don't want it in Bridgewater. And that's why the
10 ordinance has been on the books for 45 years.

11 Now, there's clearly some concern here
12 from other Board members and myself about various
13 aspects of this proposal, and there have been good
14 suggestions about how we might be able to ameliorate
15 those impacts and make the sign a bit more
16 palatable. We've talked about flip time. We've
17 talked brightness of the sign. We've talked about
18 revisiting a couple years down the road. The bottom
19 line is these are tweaks. They're tweaks. They're
20 minor changes. You can't really take what's a
21 prohibited use, a long-time prohibited use, and
22 tweak it into something we want to see, what I want
23 to see in Bridgewater.

24 So I think what they're proposing goes
25 way beyond impairing the ordinance in the zone plan.

1 time and why I think Mr. Weideli said that we try to
2 get these things right. What I also see in the
3 photo is if you look on page 3, it's funny when that
4 drone was sitting there, I wondered if you had
5 snapped this photo -- and perhaps you did -- maybe,
6 I don't know, about three seconds sooner, you would
7 have gotten a photo of, I don't know, three, six,
8 nine, maybe 18 cars in this one little section that
9 we refer to as the 80 percent. So it speaks to the
10 fact that our Chairman was most concerned about
11 safety all along this case.

12 I think you guys did a good job. I
13 appreciate that you bent and moved it to 13 seconds
14 because I do feel that it's maybe -- Mr. Sweeney,
15 obviously, we don't want it here, and I don't want
16 it here, but at the very least, it's going to be
17 slowed down for safety and for aesthetics. And I
18 support that and I appreciate you doing it because I
19 do think that the planner was honest and the fact if
20 this had gone to court, it probably would have been
21 -- you would have got it granted anyway because I
22 think it's inevitable that we're moving in this
23 direction. So I appreciate that, the flip rate.
24 The fact that there's no catwalk, you should have
25 said that a month ago. If there is no catwalk, you

1 It contradicts that zoning plan and that ordinance.
2 It defeats that ordinance. It guts and renders it
3 moot. Because of those reasons, just say no. Thank
4 you.

5 CHAIRMAN FOOSE: Thank you.

6 MS. Guttschall.

7 MS. GUTTSCHALL: While it's very
8 compelling, I feel that the sign is there and it's
9 not going to be removed. And I appreciate that the
10 Applicant has been very open to making changes, as
11 per our requests. I feel like the 12-second or
12 13-second flip makes it basically similar to what is
13 there today. And I like the aspect that a digital
14 sign can be useful for emergencies, which the static
15 sign up there now is not. I'm in favor of this.

16 CHAIRMAN FOOSE: Thank you.

17 Mr. Fresco.

18 MR. FRESCO: Well, you know, I
19 appreciate you providing those drone photos. I
20 think there's a lot going on with these drone
21 photos. First of all, I hope that the Applicant
22 understands that these photos are what we're all
23 here for, to protect this, and it's a responsibility
24 that personally I take very strongly. It just
25 speaks to what Bridgewater is and why I volunteer my

1 know, that limits the fact that some kids can really
2 get up there and really do damage. So I'm glad of
3 that. A planter, bushes, whatever, that's fine.
4 And the footcandles. So reluctantly, I think I will
5 vote for this.

6 CHAIRMAN FOOSE: Thank you.

7 Mr. Bonjorno.

8 MR. BONJIORNO: Again, I think the
9 applicant provided a lot of detail and did a good
10 job presenting their case. I think Mr. Sweeney's
11 concerns about what he labeled visual clutter makes
12 me stop and think. I've lived in Jersey 27 years.
13 I've been to towns where all I see is sign after
14 sign after sign. And quite frankly, it looks
15 terrible. And I hope that whatever decision we make
16 today doesn't change the rural impact that I think
17 that is the nature of Bridgewater. That does
18 concern me that what happens if we allow this to go
19 forward.

20 I also paid attention to what Scarlett
21 said, and I have a fear that this could open up the
22 floodgates. Now, there's a but. And the but is
23 that the sign is there now. With a 13-second flip,
24 I don't see much of a change in what's there now and
25 what's going to be there if we approve this.

1 So having said that, I would probably
2 be in favor of this application.

3 CHAIRMAN FOOSE: Thank you. I'm going
4 to go last.

5 MR. WROBEL: Can I speak?

6 CHAIRMAN FOOSE: You're not eligible.

7 MS. WOLFE: You can speak; you just
8 can't vote.

9 CHAIRMAN FOOSE: We'll get Mr. Fallone
10 as well.

11 Go ahead, Kevin.

12 MR. WROBEL: Honestly, I really don't
13 know. The ordinance is definitely -- it's there and
14 it leads me to say I am very concerned with the
15 safety even with the 13-second intervals. I mean, I
16 feel like the Courts will strike it down anyway.
17 Just on that, as much as I'm unhappy, I'll probably
18 just bite my tongue and vote yes.

19 CHAIRMAN FOOSE: Mr. Fallone. Sorry I
20 missed you.

21 MR. FALLONE: I'm sorry I missed the
22 other meeting. I was at work. So I won't be voting
23 today. I'm sure it came up before, but there's an
24 advertising sign on that now, a real estate group.
25 So did I miss something as to advertising on the

1 billboard as it is?

2 MR. PURCELL: This is an upgrade.

3 MR. FALLONE: Right now there's an
4 advertisement.

5 MR. PURCELL: It's being upgraded to
6 be a digital multi-message billboard.

7 MR. FALLONE: I understand that. I
8 guess you missed what my question was. It goes to
9 the ordinance and advertisements being allowed in
10 town. That's all I have to say.

11 CHAIRMAN FOOSE: Thank you, Mr.
12 Fallone.

13 I'm going to go last only because in a
14 lawsuit -- I influence other Board members, so I'll
15 take that away and I'll go last. And I had a
16 question tonight of Amanda. And that was if a built
17 a shed 60 years ago and the shed was not conforming
18 to the Township standards and I didn't remove the
19 shed and the town then subsequently tried to make me
20 remove it, would I have legal grounds to keep my
21 shed. And she basically, yes, you would have strong
22 legal grounds.

23 Unfortunately, I feel we're in a
24 situation where how it happened, really, who knows?
25 1968 versus the current year we're in, it's been a

1 long time. The sign exists. It has advertising on
2 it. I'm concerned about the Township's
3 responsibility here, the fact that it continued so
4 long. It is what it is. The sign exists. There's
5 not much we can do about it.

6 On the second prong, Mr. Sweeney's
7 right. Does it damage the intent of the municipal
8 land use? I think it does in certain respects. But
9 I will tell you that as long as I'm on this Board,
10 we're going to go three or four sessions and we're
11 going to hear it out and we're going to make sure
12 that whatever happens in the legal context, we're a
13 hundred percent safe.

14 I appreciate, Mr. Purcell, that you and
15 your Applicant have gone and made a change for us to
16 13 seconds. Moving 231 square feet from 247, we're
17 going from 6.9 foot setback to 10 feet. They are
18 going to keep the .03 footcandle measurement above
19 ambient. I think these are all good measurements.
20 But really what it comes down to is the sign exists
21 in its current form. How it happened, I don't know.
22 I have a feeling the Applicant doesn't know. It's
23 an upgrade. I don't think there's a whole lot we
24 can do about it. I'm going to vote in favor.

25 Based on the deliberations of the

1 Board, I will entertain a motion to approve this
2 application.

3 MR. WEIDELI: So moved.

4 CHAIRMAN FOOSE: Mr. Weideli.

5 Do I have a second?

6 MS. AMIN: I second.

7 CHAIRMAN FOOSE: Mrs. Amin, second.

8 With that, can we have a roll call
9 vote, please?

10 THE SECRETARY: Chairman Foose.

11 CHAIRMAN FOOSE: Yes.

12 THE SECRETARY: Mr. Weideli.

13 MR. WEIDELI: Yes.

14 THE SECRETARY: Mr. Sweeney.

15 MR. SWEENEY: No.

16 THE SECRETARY: Ms. Guttschall.

17 MS. GUTTSCHALL: Yes.

18 THE SECRETARY: Ms. Amin.

19 MS. AMIN: Yes.

20 THE SECRETARY: Mr. Fresco.

21 MR. FRESKO: Yes.

22 THE SECRETARY: Mr. Bonjiorno.

23 MR. BONJIORNO: Yes.

24 THE SECRETARY: Thank you.

25 CHAIRMAN FOOSE: Thank you, Mr.

1 Purcell. Happy holidays.

2 MR. PURCELL: Thank you and the Board.

3 Happy holidays.

4 (Proceeding concluded at 9:51 p.m.)
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1 C E R T I F I C A T E
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3 I, Lisa C. Bradley, a Certified
4 Court Reporter and Notary Public of the State of New
5 Jersey, do hereby certify that the foregoing is a
6 true and accurate transcript of the proceeding as
7 taken stenographically by and before me at the time,
8 place and on the date hereinbefore set forth, to the
9 best of my ability.
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16 LISA C. BRADLEY, CCR

17 CCR NO. 30XI60228700
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